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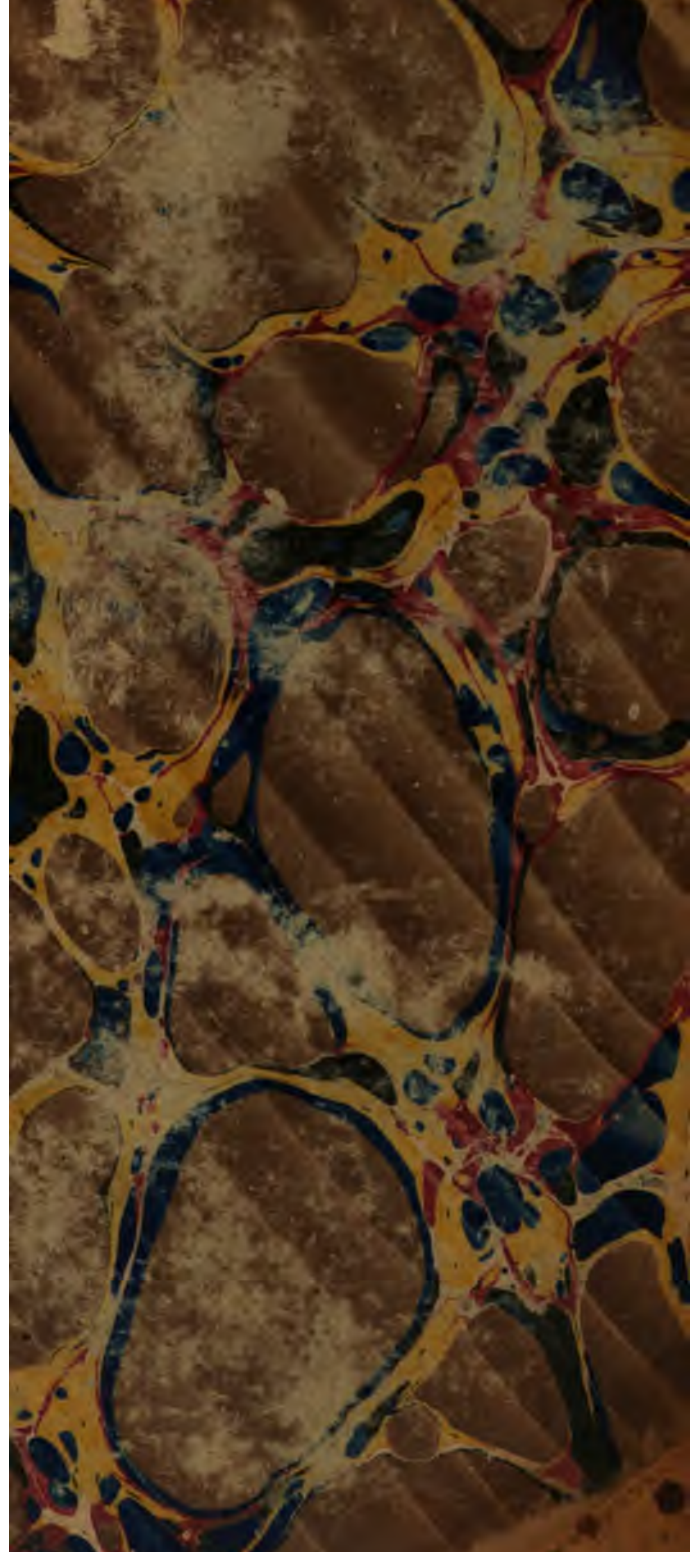
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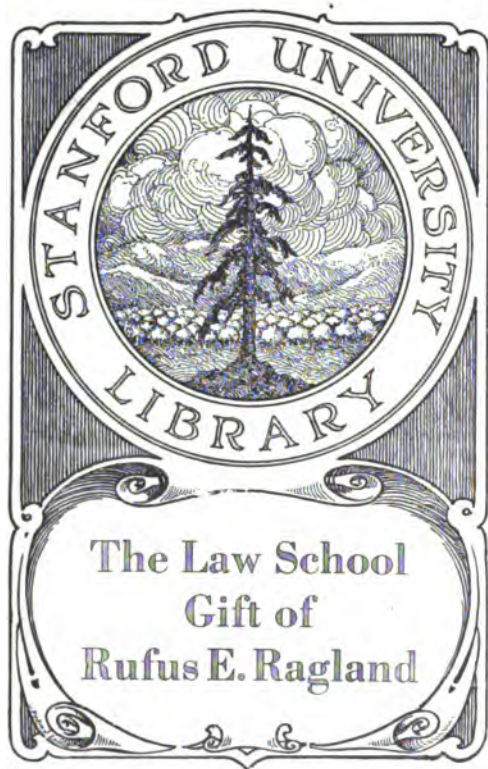
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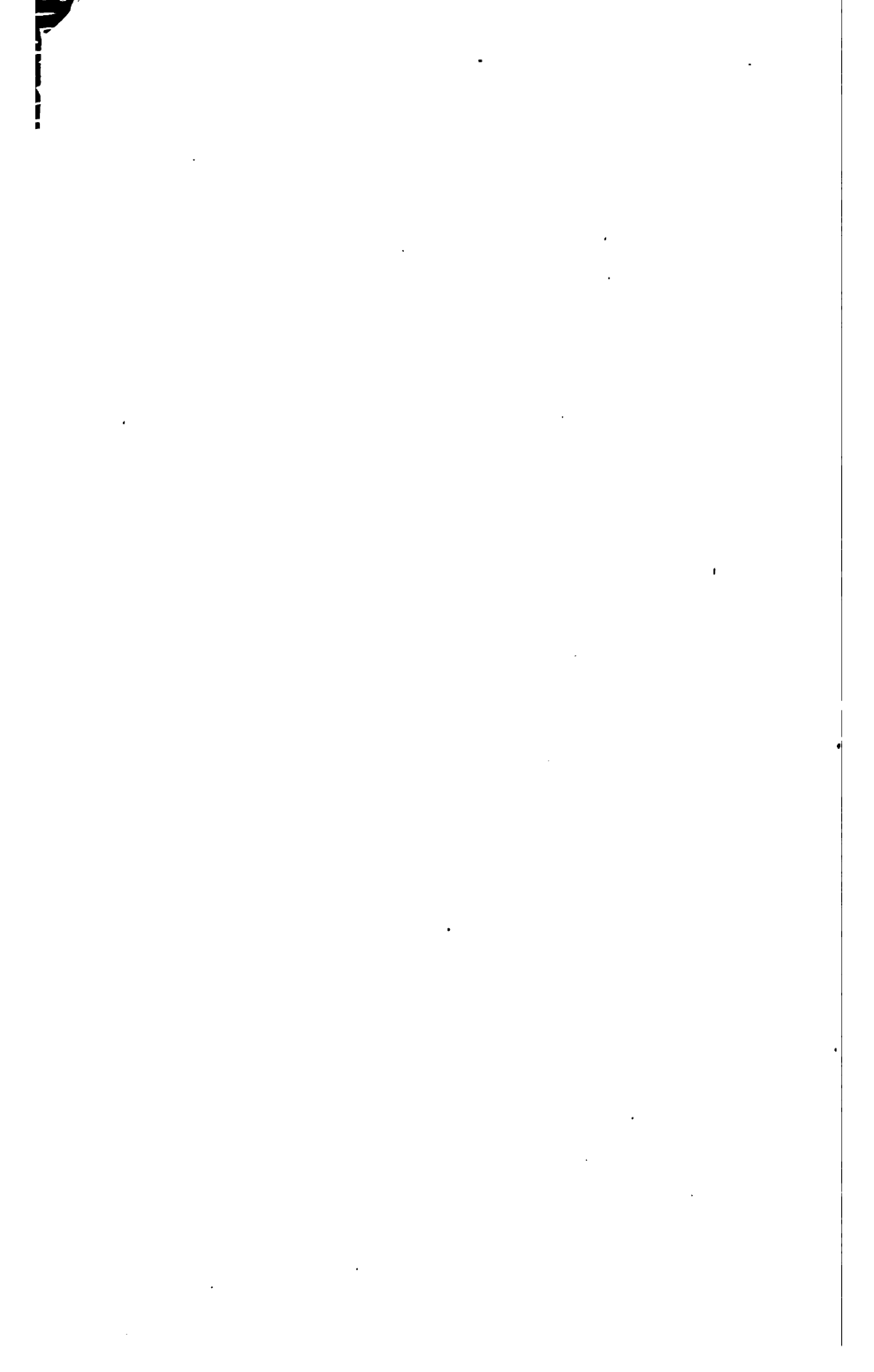
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HE 3







9th. Brit. Law.
A

COLLECTION OF STATUTES

CONNECTED WITH THE

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ARRANGED ACCORDING TO THE ORDER OF SUBJECTS:

WITH NOTES,

By **SIR WILLIAM DAVID EVANS, KNT.**

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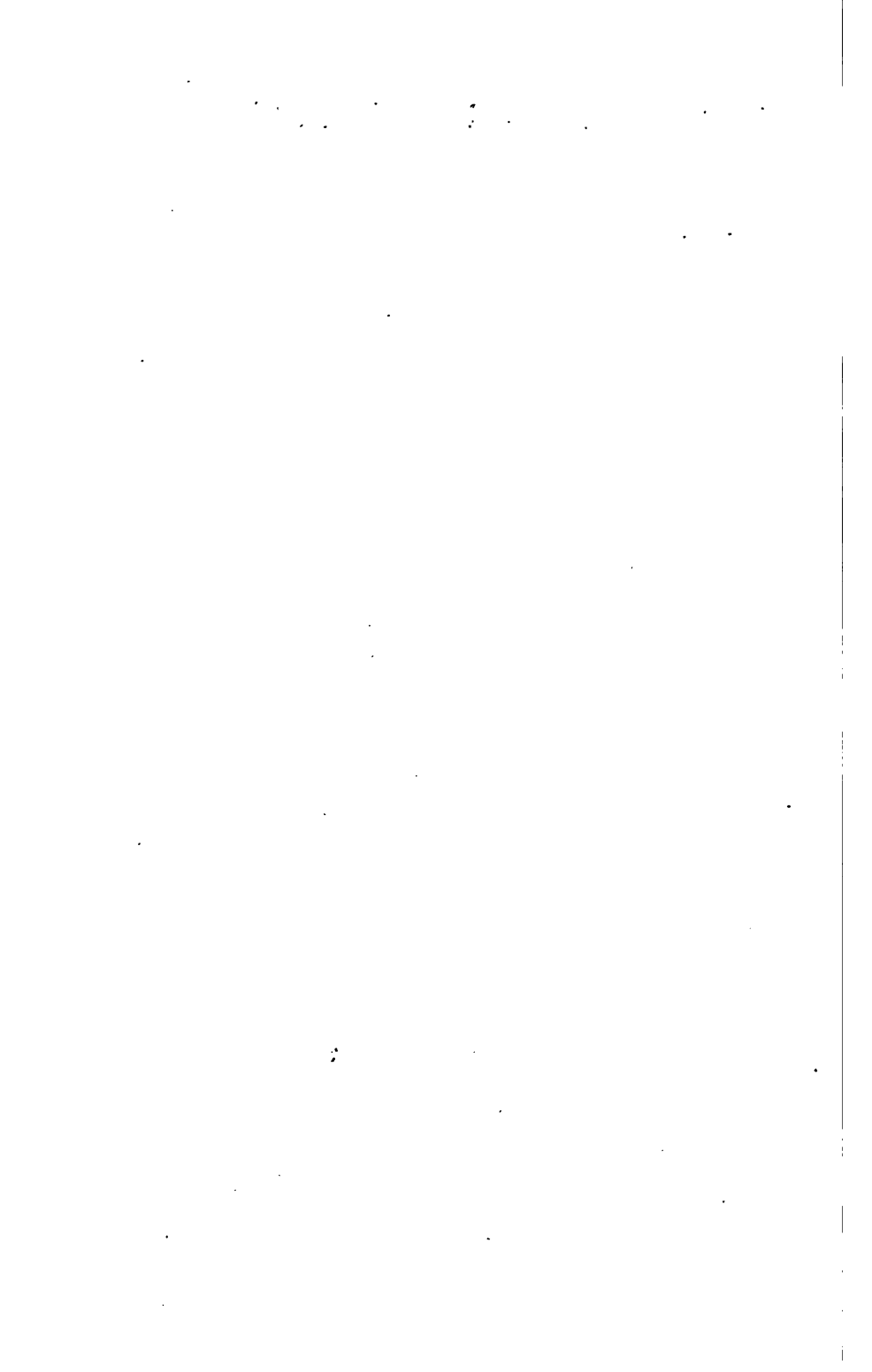
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No. I.

5 & 6

Edw. VI.

c. 25.

None shall sell Ale or Beer without Licence, and they shall be bound by Recognisance.

1 Show. 398. Justices of Peace may discharge common selling of Ale and Beer.

1 Bulst. 109. 4 Mod. 144. Recognisance with surety by those which do

Recognisance must be certified at the next Quarter Sessions.

Inquiry of those which have forfeited their Recognisance.

The Punishment of those which contrary to the Commandment of the Justices do keep Alehouses.

Altered by 3 Car. I. c. 3. § 2.

Palmer 388. 1 Salk. 45.

'houses called Tipling-houses;' (2) It is therefore enacted by the King our sovereign lord, with the assent of the Lords and Commons in this present parliament assembled and by the authority of the same, That the justices of peace within every shire city borough town corporate franchise or liberty within this realm, or two of them at the least (whereof one of them to be of the *quorum*) shall have full power and authority by virtue of this Act, within every shire city borough town corporate franchise and liberty where they be justices of peace, to remove discharge and put away common selling of ale and beer in the said common alehouses and tipling houses in such town or towns and places where they shall think meet and convenient: (3) And that none after the first day of *May* next coming shall be admitted or suffered to keep any common alehouse or tiplinghouse but such as shall be thereunto admitted and allowed in the open sessions of the peace, or else by two justices of the peace, whereof the one to be of the *quorum*; (4) And that the said justices of the peace or two of them (whereof the one be of the *quorum*) shall take bond and surety from time to time by recognisance of such as shall be admitted and allowed hereafter to keep any common alehouse or tiplinghouse, as well for and against the using of unlawful games, as also for the using and maintenance of good order and rule to be had and used within the same, as by their discretion shall be thought necessary and convenient (5) for making of every which recognisance, the party or parties that shall be so bound shall pay but twelve pence.

keep Alehouses. xij. d. for making the Recognisance.

II. And the said justices shall certify the same recognisance at the next quarter sessions of the peace to be holden within the same shire city borough town corporate franchise or liberty where such alehouse or tiplinghouse shall be; (2) the same recognisance there to remain on record before the justices of peace of that shire city borough town corporate franchise or liberty; (3) upon pain or forfeiture to the King for every such recognisance taken and not certified, iij. li. vi. s. viij. d.

III. And it is further enacted by the authority aforesaid, That the justices of the peace of every shire city borough town corporate franchise and liberty where such recognisance shall be taken shall have power and authority by this Act in their quarter sessions of the peace by presentment information or otherwise by their discretion, to inquire of all such person as shall be admitted and allowed to keep any alehouse or tiplinghouse and that he bound by recognisance as is abovesaid, if they or any of them have done any act or acts whereby they or any of them have forfeited the same recognisance; (2) and the said justices of every shire and place where they be justices, shall upon every such presentment or information award process against every such person so presented or complained upon before them to show why he should not forfeit his recognisance; (3) and shall have full power and authority by this Act to hear and to determine the same by all such ways and means as by their discretion shall be thought good.

IV. And it is further enacted by the authority aforesaid, That if any person or persons other than such as shall be hereafter admitted or allowed by the said justices, shall after the said first day of *May* obstinately and upon his own authority take upon him or them to keep a common alehouse or tiplinghouse, or shall contrary to the commandment of the said justices or two of them use commonly selling of ale and beer: That then the said justices of peace or two of them (whereof one to be of the *quorum*) shall for every such offence commit every such person or persons so offending to the common gaol within the said shire city borough town corporate franchise or liberty, there to remain without bail or mainprize by the space of three days; (2) and before his or their deliverance, the said justices shall take recognisance for him or them so committed, with two sureties, that he or they shall not keep any common alehouse, tiplinghouse, or use commonly selling of ale or beer, as by the discretion of the said justices shall seem convenient.

V. And the said justices shall make certificate of every such recognisance and Certificate of the Recognisance and Offence at the Quarter Sessions.

conscience and offence at the next quarter sessions that shall be holden within the same shire city borough town corporate franchise or liberty where the same shall be committed or done; (2) which certificate shall be a sufficient conviction in the law of the same offence. (3) And the said justice of peace upon the said certificate made, shall in open sessions assess the fine for every such offence at xx. s.

No. I.
5 & 6
Edw. VI.
c. 25.

The Fine of those which keep Alehouse without Licence.

VI. Provided alway, That in such towns and places where any fair or fairs shall be kept, that for the time only of the same fair or fairs it shall be lawful for every person and persons to use common selling of ale or beer in booths or other places there, for the relief of the King's subjects that shall repair to the same, in such like manner and sort as hath been used or done in time passed; this Act or any thing therein contained, to the contrary notwithstanding. 11 H. 7. c. 2. 4 Ja. 1. c. 4.

A Proviso for
Towns where
Fairs be kept.

[No. II.] 1 James I. c. 9.—An Act to restrain the inordinate Haunting and Tipling in Inns, Alehouses and other Victualling-houses.

WHEREAS the ancient true and principal use of Inns Alehouses and Victualling-houses was for the receipt relief and lodging of way-faring people travelling from place to place, and for such supply of the wants of such people as are not able by greater quantities to make their provision of victuals, and not meant for entertainment and harbouring of lewd and idle people to spend and consume their money and their time in lewd and drunken manner?

1. Jas. I. c. 9.
The true and
principal Use of
Inns and Ale-
houses.

II. Be it therefore enacted by the King's most excellent Majesty, the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That if after forty days next ensuing after the end of this present session of parliament, any inn-keeper victualler or alehouse-keeper within this realm of England or the dominion of Wales, do permit or suffer any person or persons inhabiting and dwelling in any city town corporate market town village or hamlet within this realm of England or dominion of Wales, where any such inn alehouse or tipling-house is or shall be, to remain and continue drinking or tipling in the said inn, victualling-house tipling-house or alehouse; (1) other than such as shall be invited by any traveller, and shall accompany him only during his necessary abode there; (2) and other than labouring and handicraftsmen in cities and towns corporate and market towns upon the usual working-days, for one hour at dinner-time to take their diet in an alehouse; (3) and other than labourers and workmen which for the following of their work by the day or by the great in any city town corporate market town or village, shall for the time of their said continuing in work these sojourn lodge or victual in any inn alehouse or other victualling-house; (4) other than for urgent and necessary occasions to be allowed by two justices of the peace; That then every such inn-keeper victualler or alehouse-keeper shall for every such offence forfeit and lose the sum of ten shillings of current money of England to the use of the poor of the parish where such offence shall be committed; (5) the same offence being viewed and seen by any mayor bailiff or justice of peace within their several limits, or proved by the oath of two witnesses to be taken before any mayor bailiff or any other head officer or any one or more justices or justices of the peace, who by virtue of this Act shall be authorised to minister the said oath to any person or persons that can or will justify the same, being within the limits of their said commission.

The Forfeiture
of an Alehouse-
keeper per-
mitting one to
continue un-
lawful Drinking
in his House.

7 Jac. 1. c. 10.
4 Car. 1. c. 4.

Farther Pro-
visions relating
hereto.
1 Car. I. c. 4.
Burn, v. 1—28.

One Witness
sufficient.
21 Jac. 1. c. 7.
sect. 1.

III. And be it further enacted by the authority aforesaid, That if any inn-keeper alehouse-keeper or victualler shall at any time utter or sell less than one full ale-quart of the best beer or ale for a penny, and of the small two quarts for one penny, that then every such inn-keeper alehouse-keeper or victualler shall forfeit for every such offence, being duly

The Prices of
Ale and Beer
sold in an Inn—
or Alehouse.

No. II.

1 Jac. I.

c. 9.

proved in manner above limited, the sum of twenty shillings of lawful money of England to the use abovesaid: (2) All and every the said penalties to be levied by the constables or churchwardens of the parish or parishes where the offence or offences shall be committed, by way of distress to be taken and detained for the said forfeitures, and for default of satisfaction within six days next ensuing, the same then to be presently appraised and sold, and the surplusage or remainder over and above to be delivered to the party of whom the distress was taken; (3) and for want of sufficient distress the party or parties offending to be by the mayor, bailiff or other head officer or justice or justices aforesaid, committed to the common gaol, there to remain until the said penalty or penalties be truly paid. (1)

The Penalty of
the Constables
or Church-
wardens omitt-
ing their Duty.

The Constable
and Church-
warden's Ac-
count.

12 H. 7. c. 2.
5 & 6 Ed. 6.
c. 25.

The Continu-
ance of this Statute.

Offences com-
mitted within
the Universi-
ties.

IV. And be it further enacted by the authority aforesaid, That if the constables or church-wardens do neglect their duty in levying, or do not levy the said several penalties, or in default of distress or distresses, from time to time do neglect to certify the same default of distress by the space of twenty days then next ensuing, to the mayor bailiff or other head officer or justice of peace within whose jurisdiction the offence is committed, then every person and persons so offending shall forfeit for every such default the sum of forty shillings of current money of England, to the use of the poor of the parish where such offence shall be committed; (2) to be levied by way of distress of the offender's goods, by warrant from any one or more justice or justices of the peace mayor bailiff or other head officer within the limits of their jurisdictions respectively, under his or their hand and seal to be taken and detained for the said forfeitures, for the space of six days then next ensuing: Within which time if payment be not made, the same goods to be presently appraised and sold, and the surplusage and remainder over and above (if any be) to be delivered to the party of whom the distress was taken; (3) and for want of such sufficient distress the constables church-warden or church-wardens so offending to be by the mayor bailiff or other head officer justice or justices of peace committed to the common gaol, there to remain until the said penalty or penalties be truly paid; (4) for all which penalties which so shall be levied by the said constables or church-wardens, they the said constables and church-wardens shall be accountable to their successors and other the parishioners, in such sort as they usually be in other church-reckonings or accounts: (5) And for all forfeitures to be levied by reason of any neglect of the constables or church-wardens, those shall be accountable who by force of any warrant or precept do levy the same, or upon the enlargement of persons committed do receive the same.

V. And be it further enacted, That all other laws and statutes touching inn-keepers victuallers and alehouse-keepers shall still remain in their former force and be put in due execution. (2) This Act to continue to the end of the first session of the next Parliament.

VI. Provided always, and be it enacted by the authority of this present Parliament, That the correction and punishment of such as shall offend against this Act or any part thereof, within either of the two Universities of this realm or the precincts or liberties of the same, shall be done upon the offenders, and justice shall be ministered in this behalf, according to the intent and true meaning of this law, by the governors magistrates justices of the peace or other principal officers of either of the same Universities, to whom in other cases the administration of justice and correction and punishment of offenders by the laws of this realm and their several charters doth belong or appertain, and that no other within their liberties, for any matter concerning this law, contrary to their several charters do intermeddle; (2) and that all penalties and sums of money to be forfeited or lost by force of this Act, within either of the Universities or the liberties or precincts of the same, shall be levied by the officers or ministers of either of the said Universities, to be from time to time in

(1) By 2 Geo. 3, c. 14, no Innkeeper, &c. shall be sued for enhancing the price of Ale to a reasonable degree.

that behalf appointed by the vice-chancellors thereof for the time being respectively; (3) and that all powers and authorities either of imprisonment or otherwise before given or appointed by this Act, shall by the governors magistrates and principal officers abovesaid of either of the said Universities, be duly executed and done within either of the said Universities and the liberties and precincts of the same, according to the true intent and meaning of this Act. [Made perpetual by 21 Jac. 1. c. 7. §. 1.]

No. II.

1 Jac. I.

c. 9.

[No. III.] 4 James I. c. 5.—An Act for repressing the odious and loathsome Sin of Drunkenness.

‘ WHEREAS the odious and loathsome sin of drunkenness is of late grown into common use within this realm, being the root and foundation of many other enormous sins, as bloodshed stabbing murder swearing fornication adultery and such like, to the great dishonour of God and of our nation, the overthrow of many good arts and manual trades, the disabling of divers workmen, and the general impoverishing of many good subjects, abusively wasting the good creatures of God:’

4 Jac. I. c. 5.

The Penalty of a Drunkard, and of him that continueth drinking in an Alehouse.

1 Salk. 45.

Drunkenness the Foundation of many other Sins, and the Cause of several Enormities.

II. Be it therefore enacted by the King's most excellent Majesty, the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That all and every person or persons, which after forty days next following the end of this present Session of Parliament shall be drunk, and of the same offence of drunkenness shall be lawfully convicted, shall for every such offence forfeit and lose five shillings of lawful money of *England*, to be paid within one week next after his her or their conviction thereof, to the hands of the churchwardens of that parish where the offence shall be committed, who shall be accountable therefore to the use of the poor of the same parish: (2) And if the said person or persons so convicted shall refuse or neglect to pay the said forfeiture as aforesaid, then the same shall be from time to time levied of the goods of every such person or persons so refusing or neglecting to pay the same, by warrant or precept from the same court judge or justices before whom the same conviction shall be: (3) And if the offender or offenders be not able to pay the said sum of five shillings, then the offender or offenders shall be committed to the stocks for every offence, there to remain by the space of six hours.

The Forfeiture

of him that is convicted of Drunkenness.

7 Jac. 1. c. 10.

The Penalty for refusing or being not able to pay the Forfeiture.

III. And be it further enacted by the authority aforesaid, That if any constable or any other inferior officer of that parish or place where the offence shall be committed, to whom that shall be given in charge by the precept of any mayor bailiff or other head officer or justices of the peace within their several limits, do neglect the due correction of the said offender, or the due levying of the said penalties where distress may be had; then every person so offending shall forfeit the sum of ten shillings of current money of *England*, to the use of the poor of the same parish or place where the offence shall be committed, to be levied by way of distress, by any other person or persons having warrant from any mayor bailiff or other head officer justices of peace or court where any such conviction shall be, and to be paid to the churchwardens as before limited, who are also to account for the same to the use aforesaid.

The Forfeiture of an inferior Officer that doth neglect to do his Duty.

IV. And be it further enacted by the authority aforesaid, That if any person or persons within this realm of *England* or the dominion of *Wales* shall remain or continue drinking or tipling in any inn victualling-house or alehouse, being in the same city town village or hamlet wherein the said person or persons (so remaining drinking or tipling) doth dwell and inhabit at the time of such drinking and tipling; and the same being viewed and seen by any mayor or other head officer justice or justices of peace within their several limits, or duly proved in such manner and form as is limited in and by one Act of Parliament made in the first session of this present Parliament, intituled, *An Act to restrain the inordinate Haunting and Tippling in Inns Alehouses and other Victualling-houses*, unless it be in such

The Penalty for continuing drinking in an Alehouse, &c.

7 Jac. 1. c. 10.

Further Provisions relating hereto,

1 Car. 1. c. 4.

1 Jac. 1. c. 9.

No. III.

4 Jac. I.

c. 5.

What Officers shall inquire of and punish the Offences committed against this Statute, and the Statute of 1 Jac. 1. c. 9.

He that is the second Time convicted of Drunkenness shall be bound to his good behaviour.

What Officers shall present the Offences aforesaid.

Enlarged by 21 Jac. 1. c. 7. sect. 5.

No Restraint of Ecclesiastical Jurisdictions.

There shall be but one Punishment for one Offence.

The Liberties of the Universities shall not be prejudiced.

Within what Time an Offender shall be presented.

case or cases as be tolerated or accepted in the said Act; that then every person or persons so offending shall forfeit and lose for every such offence the sum of three shillings and four pence of current money of England, to the use of the poor of the parish where the said offence shall be committed, to be levied by way of distress in such manner and form as is before appointed by this Act for the levying of the penalty of five shillings for being drunk: (2) And if it happen that any offender or offenders against the true intent of this clause or branch being thereof lawfully convicted be not able to pay the said forfeiture or forfeitures, then it shall and may be lawful for any mayor bailiff or other head officer justice or justices of peace or court where any such convictions shall be, to punish the said offender or offenders by setting him her or them in the stocks for every such offence by the space of four hours.

V. For the more due execution of this statute, and for the better and more due proceeding against such offenders, all offences of drunkenness and of excess and unmeasurable drinking, (2) Be it further enacted by the authority of this present Parliament, That all the offences in this Act and in the said former Act mentioned, shall be from time to time diligently inquired of and presented before the justices of assizes in their circuit, justices of the peace in their quarter or ordinary sessions, and before the mayors bailiffs or other head officers of every city or town corporate, who have power to inquire of trespasses riots routs forces and such like offences, and in every court leet, and thereupon such due proceedings shall be against the offender and offenders for their due conviction in that behalf, as in such like cases upon any indictment or presentment is used by the laws of the realm, or customs of the city town or place where such presentment or indictment shall be inquired of and found.

VI. And it is further enacted by the authority aforesaid, That if any person or persons, being once lawfully convicted of the said offence of drunkenness, shall after that be again lawfully convicted of the like offence of drunkenness, That then every person and persons so secondly convicted of the said offence of drunkenness shall be bounden with two sureties to our sovereign lord the King's Majesty his heirs and successors in one recognisance or obligation of ten pounds, with condition to be from thenceforth of good behaviour.

VII. Be it further enacted by the authority aforesaid, That all constables churchwardens headboroughs tythingmen aleconners and sidemen shall in their several oaths incident to their several offices be charged in like sort to present the offences contrary to this statute.

VIII. Provided always, That this Act or any thing therein contained do not in any wise abridge or restrain the ecclesiastical power or jurisdiction, but that all ordinaries and other ecclesiastical justices and officers shall and may proceed to inquire of censure and punish all such offenders according to the ecclesiastical laws of this realm, in such manner and form as before they lawfully might do; any thing in this Act to the contrary notwithstanding.

IX. Provided also, That when any of the offenders against the true intent of this Act, or any branch or article thereof, hath been once punished or corrected for his or her offence, by any the ways and means before limited, that then the said offender shall not be afterwards punished or corrected for the same offence by any other ways or means.

X. Provided always, That this Act or any thing therein contained shall not be prejudicial to either of the two Universities of this land, but that the chancellors masters and scholars and the successors of them and either of them may as fully use and enjoy all their jurisdictions rights privileges and charters as heretofore they have or might have done; any thing in this Act to the contrary notwithstanding.

XI. Provided! always, That no person or persons shall be punished impeached or molested for any offence mentioned in this statute, unless he shall be for the same offence presented indicted or convicted within six months after such offence committed: (2) This Act to continue until

at the end of the first session of the next parliament.* [Made perpetual by 21 Jac. I. c. 7. but see 21 Jac. I. c. 28. which only continues it to the end of the first session of the next parliament. Enforced as perpetual by 1 Car. I. c. 4.]

• The Continuance of this Act.

No. III.

4 Jac. I.
c. 8.

[No. IV.] 21 James I. c. 7.—An Act for the better repressing of Drunkenness, and restraining the inordinate haunting of Inns, Alehouses and other Victualling-houses.

WHEREAS one statute, intituled *An Act to restrain the inordinate Haunting or Tipling in Inns Alehouses and other Victualling-Houses* made in the first year of his Highness happy reign of England, and another statute intituled *An Act to repress the odious and leathome Sin of Drunkenness* made in the fourth year of his Highness reign of England, were made to continue to the end of the first session of the next Parliament, and by experience have been found good and necessary laws; Be it therefore enacted, That the said statutes, with the alterations and additions hereafter expressed, shall be put in due execution and continue for ever: (2) And whereas by the said statutes proof of two witnesses is required, Be it enacted, That proof of one witness from henceforth shall be allowed and taken for sufficient in that behalf: (3) And that the voluntary confession (before any such persons as by the said Act are authorised to minister the oath) of any person offending either of the said statutes shall suffice to convict the person so offending; (4) after such confession the oath of the party so confessing shall and may be taken, and be a sufficient proof against any other offending at the same time. him that confesseth the Offence shall be a sufficient proof against any other.

II. And be it further enacted, That if any other person or persons, where-soever his or their habitation or abiding be, shall at any time hereafter be found upon view or his own confession or proof of one witness to be tipling in any inn alehouse or victualling-house, such person or persons shall be from henceforth adjudged and construed to be within the said statutes as if he or they had inhabited and dwelt in the city town corporate market-town village or hamlet where the said inn alehouse or victualling-house is or shall be where he or they shall be so found tipling, and shall incur the like penalty, and the same to be in such sort levied and disposed as in the said Act is expressed concerning such as there inhabit: (2) And the voluntary confession of such person or persons so offending before such as by the said statutes are authorised to minister the oath shall suffice to convict themselves; (3) and after such confession the oath of such person or persons so confessing shall and may be taken by such as by the said Act have authority to minister an oath, and shall be a sufficient proof against any other offending at that time.

III. And be it further enacted, That any justice of peace in any county and any justice of peace or other head officer in any city or town corporate within their limits respectively shall from henceforth have power and authority, upon his own view confession of the party or proof of one witness upon oath before him, which he by virtue of this Act shall have power to administer, to convict any person of the offence of drunkenness, whereby such person so convicted shall incur the forfeiture of five shillings for every such offence, and the same to be levied or the offender otherwise punished as in the said statute is appointed: And for the second offence he shall become bound to the good behaviour as if he had been convicted in open sessions: any thing in the said former statute made in the fourth year of his Majesty's reign to the contrary notwithstanding.

IV. And be it further enacted, That if any person being an alehouse-keeper, or that shall at any time hereafter be an alehouse-keeper, shall

ing shall be disabled from keeping an Alehouse Three Years after.

21 Jas. I. c. 7.
The Statutes
of 1 Jac. I. c. 9.
4 Jac. I. c. 5.
made perpetual.

One Witness
shall be suffi-
cient to convict
a Man of Tip-
pling and Drunk-
ness.
5 & 6 Ed. VI.
c. 25.

The oath of

He that stays
tipling in an
Inn, &c. shall
incur the Pe-
nalty inflicted
by 4 Jac. I.
c. 5.

Burn V. I. 29.
1 How. P. C.
c. 78.

He that is con-
victed of Drunk-
ness shall
forfeit 5s.

For the second
Offence he shall
be bound to the
good Behaviour.

An Alehouse-
keeper offend-

No. IV.
21 Jac. 1.
c. 7.

4 Jac. 1. c. 5.
Constables, &c.
shall be charged
(on their Oaths)
to present the
Offences com-
mitted against
1 Jac. 1. c. 9.

at any time hereafter be lawfully convict for any offence against any the branches of either of the said two former statutes according to the alterations and additions therein contained, or against the true meaning of this present statute; that every person so convict shall for the space of three years next ensuing the said conviction be utterly disabled to keep any such alehouse.

V. And whereas in the said statute made in the fourth year of his said Majesty's reign, intituled *An Act to repress the odious and loathsome Sin of Drunkenness*, constables churchwardens headboroughs tything-men aleconners and sidemen are appointed in the oaths incident to their offices to be likewise charged to present the offences contrary to the said statute; (2) Be it enacted, That the said oath shall always hereafter be also enlarged and extend to present all offences done contrary to the statute made in the first session of Parliament held in the first year of his Highness reign, intituled *An Act to restrain the inordinate Haunting and Tipling in Inns and Alehouses and other Victualling-houses*, with the alterations and additions in this Act contained, made in the said fourth year of his said Majesty's reign, according to the alterations and additions of the same in this Act expressed. 1 Car. I. c. 4.

[No. V.] 1 Charles I. c. 4.—An Act for the further Re-
straint of Tipling in Inns, Alehouses and other Vic-
tualling-houses.

1 Cha. I. c. 4.
5 & 6 Ed. VI.
c. 25.
Foreigners, as
well as Inhabi-
tants, shall not
be permitted to
tipple in Inns,
Alehouses, &c.
1 Jac. 1. c. 9.
4 Jac. 1. c. 5.

WHEREAS in the last Parliament it was enacted, That if any person or persons, whosoever his or their habitation or abiding be, should after be found upon view or his own confession or proof of one witness to be tipling in an inn alehouse or victualling-house; such person or persons should be thenceforth adjudged and construed to be within the statutes of the first and fourth years of the late King's Majesty's reign King James of famous memory; the one intituled, "An Act to restrain the inordinate haunting of tipling in inns alehouses and other victualling-houses;" and the other intituled, "An Act to repress the odious and loathsome sin of drunkenness;" as if he or they had inhabited and dwelled in the city town corporate market-town village or hamlet where the inn alehouse or victualling-house was or should be, where he or they should be so found tipling, should incur the like penalty, and the same to be in such sort levied and disposed as in the said Act is expressed concerning such as there inhabit; (2) but no punishment by any or either of the said Acts or by any other statute is inflicted upon the inn-keeper alehouse-keeper or victualler that permits or suffers such person or persons not there inhabiting to tipple in his inn alehouse or victualling-house: (3) For remedy whereof, Be it enacted, That every innkeeper alehouse-keeper and other victualler that at any time after the end of this session of Parliament shall permit and suffer any person or persons not inhabiting in the city town corporate market-town village or hamlet where such inn alehouse or victualling-house is or shall be, to tipple in the said inn alehouse or victualling-house, contrary to the true intent of any or either of the said former statutes, the said inn-keeper alehouse keeper and victualler so offending shall incur the same penalty, and in such manner to be proved levied and disposed as in the former statute of the first year of his said late Majesty's reign is appointed for permitting such to tipple as dwell in the same city town corporate market-town village or hamlet.

1 Jac. 1. c. 9.

Vintners and
Victuallers to
be within this
and the other
Statutes.

II. And be it further enacted, That the keepers of taverns and such as do sell wine in their houses, and do also keep inns or victualling in their houses, shall be taken to be within the said two former statutes, and also within this statute.

[No. VI.] 26 George II. c. 31.—An Act for regulating the Manner of Licensing Alehouses in that part of *Great Britain* called *England*; and for the more easy convicting Persons selling Ale and other Liquors without Licence.

No. VI.
26 Geo. II.
c. 31.

WHEREAS the laws concerning ale-houses inns and victualling-houses and the licensing thereof are defective and insufficient for correcting and suppressing the abuses and disorders frequently done and committed therein, and also for the conviction and due punishment of persons taking upon themselves to sell ale beer or other liquors by retail without licence; Be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That upon granting licences by justices of the peace to any person to keep an alehouse inn victualling-house, or to sell ale beer and other liquors by retail, every such person shall enter into a recognisance to the King's Majesty his heirs and successors in the sum of ten pounds, with two sufficient sureties each in the sum of five pounds, or one sufficient surety in the sum of ten pounds, under the usual condition for maintenance of good order and rule within the same; and in case the person applying for such licence shall be hindered through sickness or infirmity, or any other reasonable cause to be allowed by the said justices of the peace, to attend in person at the meetings of the same justices for granting the said licences, then that it shall and may be lawful for them to grant such licence upon two sufficient sureties entering into such recognisance each in the penalty of ten pounds, for performance of the condition of the said recognisance; which said recognisance, with the condition thereof fairly written or printed, shall forthwith, or at the next general or quarter session of the peace at farthest after granting such licences, be sent or returned to the clerks of the peace or persons acting as such for every county riding city liberty or town corporate in that part of *Great Britain* called *England*, wherein such licences shall be granted under the hands of the justices of the peace before whom such recognisances were taken, to be by the said clerks of the peace or such other person acting as such duly entered or filed amongst the records of the sessions of the peace; and that for every such licence granted without taking such recognisance, and for every such recognisance taken and not sent or returned as aforesaid, every justice of the peace signing such licence shall forfeit the sum of three pounds six shillings and eight pence.

26 G. II. c. 31.
See 1 Bur. 556.

Justices licensing Alehouses, &c. to take Recognisance in the sum of 10*l*. for the Maintenance of good Order.

II. And for the better preventing disorders in alehouses be it further enacted, That no licence to keep the same shall be granted to any person not licensed the year preceding, unless such person produce at the general meeting of the justices in *September* a certificate under the hands of the parson vicar or curate and the major part of the churchwardens and overseen, or else of three or four reputable and substantial householders and inhabitants (1) of the parish or place where such alehouse is to be, setting forth such person is of good fame and of sober life and conversation; and it shall be mentioned in such licence that such certificate was produced, otherwise such licence shall be null and void.

Licences to be granted to none not licensed the year preceding, unless such as shall produce Certificates of their good Fame.

III. Provided nevertheless, That if any licensed person shall die or remove from an alehouse, it shall be lawful for the person succeeding to such house to keep on the said alehouse during the residue of the term of such licence, on condition that within thirty days after such death or removal such person obtain such certificate as aforesaid, to be signed by some neighbouring justice, in order to its being produced at the next general meeting in *September*; and if such certificate be not so obtained and signed within the said thirty days, then immediately from and after the expiration thereof such licence shall be null and void; and no licence shall entitle any person to keep an alehouse in any other place than that

Licensed Person dying or removing, the Successor, upon obtaining such Certificate, may keep on the House for the Residue of the Term of the Licence, &c.

(1) The Certificate of Householders, without the Minister or Churchwardens, is sufficient. R. v. Young, 1 Bur. 556.

No. VI.

36 Geo. II.

c. 31.

2 Geo II. c. 28.
§ 11.Last Provision
in the said
Clause repealed.Licences to be
granted on 1
Sep. or 20 days
after, but for 1
year.Clerks of the
Peace to deliver
Copies of the
Recognisances.Recovery of
Forfeitures.Where a Jus-
tice shall ad-
judge the Re-
cognisance to
be forfeited, he
is to summon
the Party to
the Quarter
Sessions, &c.

in which it was first kept by virtue of such licence, and such licence regard to all other places shall be null and void.

IV. Whereas by an Act made in the second year of his present Majesty's reign, intituled *An Act to revise the Laws therein mentioned* amongst other things it was enacted, That no licences shall be granted to any person to keep a common inn or alehouse, or to retail any brandy or strong waters, but at a general meeting of the justices of the peace at in the division where the said person dwells, to be holden on the day of September yearly, or within twenty days after; or at any general meeting of the said justices to be holden for the division where the said person resides; which regulation, by reason of the last-mentioned provision, has been found by experience not to have the effect intended by the said regulation; Be it therefore enacted by the authority aforesaid, That the last before-mentioned provision shall be and hereby repealed; and that from henceforth no licence for the purpose aforesaid shall be granted but on the first day of September yearly, within twenty days after; and that such licence shall be made for one year only, to commence on the twenty-ninth day of the said September; and that the day and place for granting such licences shall be appointed by two or more of the justices acting for the division (2) by a warrant under their hands and seals, at least ten days before such meeting directed to the high constable or high constables of the said division requiring him or them to order his or their respective petty constables or other peace officers to give notice to the several innkeepers and alehousekeepers, within their respective constablewicks, of the day and place of such meeting; and all licences hereafter granted at any other time or place shall be null and void to all intents and purposes whatsoever.

V. And be it further enacted, That the clerks of the peace shall keep a register or calendar of all the recognisances so sent or returned, and shall deliver or cause to be delivered to the justices of the peace, at the general meetings in September every year for granting licences in each division, a true copy of such register or calendar; and that for every recognisance there shall be paid by the clerk or clerks of the justices taking such recognisances to the said clerks of the peace, as their fee for filing and recording the said recognisance, and for making and delivering copies of the said register or calendar thereof as aforesaid, the sum of one shilling and no more; which shall be paid to the clerks of the said justices by the persons licensed, over and above the fees payable to the said justices and clerks.

VI. And be it enacted by the authority aforesaid, That the said justices for granting licences without taking recognisances shall and may be sued for and recovered by action of debt bill plaint or information in any of his Majesty's Courts of Record at Westminster, for the use of any person or persons who shall sue or prosecute for the same, together with costs of suit; wherein no essoin wager of law or more than one impignation shall be allowed.

VII. And be it further enacted by the authority aforesaid, That any justice of the peace of any county riding city liberty or town corporate wherein such licence shall be granted, upon complaint or information that such licensed person hath done or committed any act or offence which is a misdemeanor, whereby in the judgment of the same justice such recognisance may be forfeited or the condition thereof broken, may by summons under his hand and seal require such person so complained of or informed against to appear at the next general or quarter session of the peace of the said county riding city liberty or town corporate, then and there to answer to the matter of such complaint or information; and also may bind the person or persons who shall make such complaint or information by any other person or persons, in a recognisance to appear at such

(2) It is not necessary that the licence should be stated on the face of it to be granted at a general meeting of Justices for the division. R. v. Bryan. And. 81.—Any justice of the county

going to a meeting in the division, is for that purpose a justice of the division. Per Aston J. Price. Cald. 305.

neral or quarter session and give evidence against such person so complained of or informed against; and the justices of the peace in their general or quarter sessions shall have power to direct the jury which shall attend at such sessions for the trial of traverses, or some other jury of twelve honest and substantial men to be then and there impanelled by the sheriff without fee or reward, to inquire of the misdemeanor charged in the said complaint or information; and if such jury shall find that the person so complained of or informed against hath done any act whereby the condition of his recognisance is broken, such act being specified in such complaint or information, it shall and may be lawful for the court at such general or quarter sessions to adjudge such person guilty of the breach of such recognisance; which verdict and adjudication shall be final to all intents and purposes; and thereupon the said justices shall order the recognisances entered into by such offender to be estreated into his Majesty's Court of *Eschequer*, to be levied to his Majesty's use; and that the said person, the condition of whose recognisance shall be so adjudged to be broken and forfeited, shall, from and after such adjudication, be utterly disabled to sell any ale beer cyder perry spirituous liquors or strong waters for the space of three years; and any licence or licences granted or to be granted to such person during such term shall be void and of none effect.

VIII. Provided, That the said justices may at the request of the prosecutor or party so complained of or informed against, or either of his or her sureties, if they shall see just, adjourn the hearing and trial of the said complaint or information to the then next general or quarter sessions of the peace, where the same shall be finally determined.

IX. And whereas many persons presume to sell ale beer cyder perry or other liquors without such licence as is required by law for selling the same; and it is difficult by reason of many evasions that are made use of and by some defects in former laws to convict such offenders: Be it therefore enacted, That where any justice of the peace shall suspect that any alehouse-keeper victualler or retailer sells ale beer cyder or perry without such licence, it shall and may be lawful for such justice to call such suspected person before him, and also any excise officer or gauger to produce before such justice his stock book or other account which such officer keeps of the charge or survey of such suspected person in respect of any of the liquors aforesaid, and likewise to examine such excise officer or gauger upon oath, touching the manner in which such officer surveys or charges such suspected person in respect of any of the liquors aforesaid, or how or in what manner such suspected person actually pays the duties for any of the said liquors; and if it shall appear by such stock book or other account, or by the examination of the said officer or gauger, that such person so suspected of selling any of the liquors aforesaid is surveyed as a victualler or retailer, and is charged with the same duties that victuallers and retailers are usually charged with and pay for any of the liquors aforesaid, and is not entitled to the allowance or abatement given to common brewers, then and in such case such suspected person shall be deemed an alehouse-keeper victualler retailer or seller of any of the liquors aforesaid to all intents and purposes as if the same had been proved by two witnesses.

X. And be it further enacted, That if any person shall make information before any one justice of the peace, and shew probable cause that he suspects any person sells ale beer or other liquors without a licence from two justices, it shall and may be lawful to and for such justice to call such suspected person before him, and also to summon any other person or persons as evidence to prove the charge against such suspected person; and if such person so summoned shall refuse to appear, or when appearing shall refuse to be examined upon oath and give evidence as aforesaid, such person or persons shall forfeit the sum of ten pounds, to be levied by distress and sale of the goods and chattels of such offender or offenders by warrant under the hand and seal of such justice, rendering to him or them the overplus after charges of the said distress and sale

No. VI.

26 Geo. II.
c. 31.

and Jury find-
ing him guilty,
Recognisance
to be estreated,

and he is dis-
abled from sell-
ing Beer, &c.
for three years.

Justices may
adjourn Trial.

Where a Jus-
tice shall sus-
pect that any
Victualler sells
Ale, &c. with-
out Licence, he
may summon
him, &c.

Justice upon
Information
that any Person
is reasonably
suspected, &c.
is to summon
the party and
evidence.

No. VI.
26 Geo. II.
c. 31.

Persons disabled by Conviction to sell Ale, &c. disabled also from selling Spirituous Liquors, &c.

deducted, to be paid to the overseers for the use of the poor of the parish or place where such person or persons so offending shall live.

XI. And be it further enacted, That if any person shall be disabled by conviction to sell ale beer cyder or perry, such person shall by the same conviction be also disabled to sell any spirituous liquors or strong waters, any licence before obtained for that purpose notwithstanding; and every licence granted to the person so convicted to sell ale beer cyder perry, spirituous liquors strong waters or any of them, from the time of such conviction shall be null and void; and every person selling ale beer cyder perry spirituous liquors strong waters or any of them, during the term of such disability, shall be subject to all or such of the penalties as are respectively inflicted by law for selling ale beer cyder perry spirituous liquors strong waters or any of them by retail without a licence; and in all prosecutions of such offenders a certificate from the clerk of the peace (or person acting as such) of any such conviction shall be legal evidence; which certificate such clerk of the peace or person shall grant on demand without fee or reward.

Distress & Sale.

XII. And be it further enacted, That every person so convicted of the offence of selling ale beer or other liquors without a licence from two justices of the peace, shall for every such offence forfeit the sum of forty shillings; (3) and for every such second offence shall forfeit the sum of four pounds; and for every such third offence shall forfeit the sum of six pounds; all which said respective forfeitures shall and may be levied by distress and sale of the goods and chattels of every such offender (rendering to him the overplus after charges of the said distress and sale deducted) by warrant under the hand and seal of the justice convicting such offender; and shall be paid one moiety thereof to the informer, and the other moiety thereof to the overseers of the poor, for the use of the poor of the parish or place where such offence was committed; and if no sufficient distress shall be found whereon to levy the said respective forfeitures, then the said justice of the peace shall and may commit every such offender so respectively convicted as aforesaid to the common gaol or other prison or house of correction within his jurisdiction, without bail or mainprize, for the space of one month for the first offence; and for the second offence for the space of two months; and for the third offence until such offender shall be discharged by order of the court of general quarter sessions.

For want of Distress, the Person to be committed.

Conviction to be certified.

XIII. And be it further enacted, That every conviction of any offender for selling ale beer or other liquors without such licence, or after being disabled to sell as aforesaid, shall be certified by the justices of the peace making the same to the next general or quarter session of the peace, to be filed or entered amongst the records of the said session; and that such conviction shall and may be drawn up and certified in the following form of words, as the case shall happen, or in any other form of words to the same effect, *mutatis mutandis*, that is to say,

Form of Conviction.

‘ Middle- } A. B. is convicted on his or her own confession [or, on the
‘ ser. } oath of of having sold ale beer
‘ or other liquors in the parish of in this county,
‘ on the day of without being licensed thereto
‘ according to law [or, after being disabled to sell, as the case may be].
‘ Given under my hand and seal this day of

And there shall be added, That the same is the first second or third conviction; which said conviction in the same or the like form of words shall be good and effectual in law to all intents and purposes, and shall not be quashed set aside or adjudged void or insufficient for want of any other form or words whatsoever.

Offender not liable to double Punishment.

XIV. Provided always, That such offender who shall be punished by virtue of this Act shall not be punished again for the same offence by any former Act; and that such offender who shall be punished by virtue

any former Act shall not be punished again for the same offence by this present Act or any thing herein contained.

XV. Provided always, That this Act or any thing herein contained is not in any wise be prejudicial to the privilege of licensing taverns or other public houses claimed by the two Universities of that part of Great Britain called England, for either of them, nor to the chancellor, masters and scholars or any officers of the same or their successors, but that they may use and enjoy such privilege as they have heretofore lawfully used and enjoyed; any thing herein contained to the contrary notwithstanding.

XVI. Provided always, That nothing herein contained shall extend or be construed to extend to alter the time or times of granting such licences for keeping of common inns or alehouses, or to oblige persons not licensed the year preceding to produce certificates in any city or town incorporate. (A.)

XVII. Provided always, and be it enacted by the authority aforesaid, that any person shall be deemed a competent witness, and be admitted to give evidence upon any information or complaint for any offence committed against this Act, notwithstanding such person be an inhabitant of the place charged or liable to be charged to the payment of any rates or assessments for the relief of the poor of any parish or place where such offence shall be committed.

No. VI.

26 Geo. II. c. 31.

Rights of Universities reserved.

The Times of granting Licences for common Inns, not altered, &c.

Inhabitant of Parish competent Witness.

No. VII.] 30 Geo. II. c. 24.—An Act for the more effectual Punishment of Persons who shall attain, or attempt to attain, Possession of Goods or Money by false or untrue Pretences; for preventing the unlawful Pawning of Goods; for the easy Redemption of Goods pawned; and for preventing Gaming in Public-houses by Journeymen, Labourers, Servants, and Apprentices.

XIV. AND whereas the occupiers of many licensed public houses and of other houses wherein wines and liquors are sold frequently suffer gaming therein, and journeymen labourers servants and apprentices by means of such gaming therein not only mis-spend their time but are often reduced to poverty and great distress; Be it therefore further enacted by the authority aforesaid, That from and after the said twenty-ninth day of September one thousand seven hundred and fifty-seven, if any person or persons licensed to sell any sorts of liquors, or who shall sell or suffer the same to be sold in his her or their house or houses, or in any outhouses ground or apartments thereto belonging shall knowingly suffer any gaming with cards dice draughts shuffleboards Mississippi or billiard tables skittles nine pines or with any other implement of gaming in his her or their houses outhouses ground or apartments thereto belonging, by any such journeymen labourers servants or apprentices, and shall be convicted of the said offence on their own confession or on the oaths of one or more credible witness or witnesses before any justice or justices of the peace for the county riding division city liberty or place wherein the offence shall be committed, within six days after any such offence shall be committed, he she or they so offending shall for every such offence forfeit and pay the sum of forty shillings; and for every like offence which he she or they shall afterwards be convicted of before any such justice or justices of the peace, he she or they so offending shall forfeit the sum of ten pounds; all which sums of money so forfeited shall be levied by distress and sale of the offenders goods and chattels by warrant from the justice or justices before whom such offender or offenders shall be convicted; and which warrant every such justice or justices is and are hereby required and

3.

30 G. II. c. 24.

Publicans permitting Journeymen, &c. to game in their Houses,

forfeit 40s.

and for every subsequent Offence 10l. to be levied by Distress and Sale.

(A) This exception only applies to the time, tion of the other parts of the Act as to notices, and does not exempt such places from the operation. &c. R. v. Downs, 3.T. R. 560.

No. VII.
30 Geo. II.
c. 24.

On complaint
of Journeymen,
&c. gaming in
Public-houses,
Justice to issue
his Warrant for
apprehending
them, who upon
Conviction are
to forfeit not
exceeding 20s.
nor less than
5s.

Offender not
paying the For-
feiture, to be
committed to
hard Labour.

Justice, upon
Complaint, to
issue his War-
rant for bring-
ing the Offend-
ers before him,

and may sum-
mon Witnesses,

authorised to grant; and three fourths of all sums which shall be so forfeited shall, on the recovery thereof, be paid to the churchwardens of the parish in which the offence shall be committed for the use of the poor of such parish; and the other fourth thereof shall be paid to the person or persons on whose information the party or parties offending shall have been convicted of the offence.

XV. And be it further enacted by the authority aforesaid, That from and after the said twenty-ninth day of September one thousand seven hundred and fifty-seven, if any journeyman labourer apprentice or servant shall game in any house outhouse ground or apartments thereto belonging wherein any liquors shall be sold, and complaint thereof shall be made on oath before any justice or justices of the peace for the county riding division city liberty or place where the offence shall have been committed, every such justice or justices shall thereupon issue his or their warrant to some constable tythingman headborough or other peace officer of the parish precinct or place wherein the offence shall be charged to have been committed or where the offender shall reside, to apprehend and carry every such offender before some justice or justices of the peace acting for the county riding division city liberty or place where the offence shall be committed or where the offender shall reside; and if the person who shall be apprehended shall be convicted of the said offence by the oath of one or more credible witness or witnesses or on his own confession, every such offender shall forfeit any sum not exceeding twenty shillings nor less than five shillings, as the justice or justices before whom any such offender or offenders shall be convicted shall think fit and order every time he shall so offend and be convicted as aforesaid; and one fourth of all such money so forfeited shall, on the conviction of any such offender or offenders, be paid to the person or persons on whose information the party or parties offending shall be convicted, and the other three fourths thereof shall be applied for the use of the poor of the parish wherein the offence shall have been committed, and shall be paid to the overseers of the poor of the parish for that purpose; and if the party who shall be convicted of the offence last mentioned shall not forthwith pay down the said sum so forfeited by him, any such justice or justices shall by warrant under his hand or their hands commit every such offender to the house of correction or some other prison of the county riding division city liberty or place in which he shall be apprehended; there to remain and be kept to hard labour for any time not exceeding the space of one month, or until he shall pay the sum of money so forfeited.

XVI. And be it further enacted by the authority aforesaid, That it shall and may be lawful to and for any justice or justices of the peace of any county riding division city liberty town or place, and he and they is and are hereby required, upon complaint made to him upon oath of any offence committed against this Act within the same county riding division city liberty town or place, to issue his warrant for bringing before him or some other justice or justices of the peace of any county riding division city liberty town or place the person or persons charged with such offence; and the justice or justices before whom such person or persons shall be brought is hereby authorised and required to hear and determine the matter of every such complaint, and to proceed to judgment and conviction thereupon as by this Act is directed; and if it shall appear by oath of any credible person or persons to the satisfaction of any such justice or justices that any person or persons within the jurisdiction of such justice or justices can give or offer material evidence on behalf of the prosecutor against any offender or offenders against the true intent and meaning of this Act, or on behalf of the person accused, and who will not voluntarily appear before such justice or justices to be examined, and give his her or their evidence concerning the premises; every such justice or justices is and are hereby authorised and required to issue his or their summons to convene every such person or persons within his or their jurisdiction before him or them to be examined upon oath concerning the premises; and if any person so summoned shall

refuse to appear on such summons, and no just excuse shall be offered for such neglect or refusal, then (after proof by oath of such persons having been duly served upon him or them for that purpose) any such justice or justices is and are hereby authorised and required to issue his or their warrant to bring every such witness and witnesses, within his or their jurisdiction, before him or them; and on the assurance of any such witness before any such justice or justices, any justice or justices is and are hereby authorised and empowered to examine upon oath every such witness; and if any such witness, on his or her appearance or being brought before any such justice or justices, shall refuse to be examined on oath concerning the premises without alleging any just cause for such refusal, it shall be lawful for any such justice or justices by warrant under his or their hand and seal or hands and seals to commit every person so refusing to the publick prison of the county riding division city or place in which the person or persons so refusing to be examined on oath shall be brought before any such justice or justices, there to remain for any time not exceeding three months, as such justice or justices shall direct; and if, on such examination, any such justice or justices shall deem the evidence of any such witness or witnesses to be material, any such justice or justices may bind over any such witness, unless a feme covert or one under the age of twenty-one years, by recognisance in a reasonable penalty to appear and give evidence at the next general or quarter sessions of the peace, or sessions of Oyer and Terminer, as in such recognisance shall be mentioned.

XVII. And be it further enacted by the authority aforesaid, That no persons charged on oath with being guilty of any of the offences punishable by this Act, and which shall require bail, shall be admitted to bail before twenty-four hours notice at least shall be proved by oath to have been given in writing to the prosecutor, of the names and places of abode of the persons proposed to be bail for any such offender or offenders, unless the bail offered shall be well known to the justice or justices, and he and they shall approve of them; and every such offender and offenders, who shall be bound over to the general quarter sessions of the peace, or gaol delivery of the county city or town wherein the offence charged on him or her shall have been committed, to answer any such offences punishable by this Act, shall be tried at such general quarter sessions of the peace or sessions of Oyer and Terminer and gaol delivery which shall be held next after his or her or their being apprehended, unless the court should think fit to put off the trial on just cause made out to them. (1)

XVIII. Provided always, and be it enacted by the authority aforesaid, That in all actions suits trials and other proceedings in pursuance of this Act, or in relation to any matter or thing herein contained, any inhabitant of the parish town or place, in which any offence or offences shall be committed contrary to the true intent and meaning of this Act, shall be admitted to give evidence, and shall be deemed a competent witness, notwithstanding his or her or their being an inhabitant or inhabitants of the parish town or place wherein any such offence or offences shall have been committed.

XIX. And be it further enacted by the authority aforesaid, That the justice or justices before whom any person shall be convicted in manner prescribed by this Act, shall cause such respective conviction to be drawn up in the form or to the effect following: that is to say,

To wit, ' **B**E it Remembered, That on this _____ day of _____ in the _____ year of his Majesty's reign, A. B. is convicted before _____ of his Majesty's Justices of the Peace for the said county of _____ or _____ for the _____ riding or division of the said county of _____ or for the city, liberty or town of _____ (as the case shall happen to be) for _____ and the said _____ do adjudge him or her to pay and forfeit for the same the sum of _____ Given under _____ the day and year aforesaid.

No. VII.
30 Geo. II.
c. 24.

and if the Witness refuses to give Evidence, he may be committed to hard Labour.

Material Witness may be bound over to give Evidence before a Court.

Offenders not to be admitted to Bail, till due Notice has been given to the Prosecutor, &c.

Offender to be tried at the next Session, unless the Court put off the Trial.

Inhabitants where the Offence is committed deemed competent Witnesses.

Conviction to be drawn up in the following Form;

(1) This clause relates to the offence first mentioned in the title.

No. VII.
30 Geo. II.
c. 24.

and to be written on Parchment, and transmitted to the Quarter Sessions to be filed.

Justices at the Indictment or Conviction not removable by Certiorari.

Appeal may be made to the Quarter Sessions;

and Execution respited, the Party entering into Recognisance to prosecute the Appeal.

Justices to determine the Appeal, and award Costs.

On Affirmation of the Judgment, Appellant to pay the Fine and Costs.

None to be punished a second time for the same Offence.

And the said justice or justices, before whom such conviction shall be had, shall cause the same so drawn up in the form aforesaid to be fairly written upon parchment, and transmitted to the next general quarter session of the peace to be held for the county riding division city town liberty or place wherein such conviction was had, to be filed and kept amongst the records of the said general or quarter sessions; and in case any person or persons so convicted shall appeal from the judgment of the said justice or justices to the said general or quarter sessions, the justices in such general or quarter sessions are hereby required, upon receiving the said conviction drawn up in the form aforesaid, to proceed to the hearing and determination of the matter of the said appeal according to the directions of this Act; any law or usage to the contrary notwithstanding.

Quarter Sessions to determine Appeals.

XX. And be it further enacted by the authority aforesaid, That no *certiorari* shall be granted to remove any indictment conviction or other proceedings had thereon in pursuance of this Act.

XXI. Provided always, and it is hereby further enacted by the authority aforesaid, That if any person convicted of any offences punishable by this Act shall think him or herself aggrieved by the judgment of the justice or justices before whom he or she shall have been convicted, such persons shall have liberty to appeal to the justices at the next general or quarter sessions of the peace which shall be held for the county riding division city liberty town or place where such judgment shall have been given; and that the execution of the said judgment shall in such case be suspended, the person so convicted entering into a recognisance at the time of such conviction, with two sufficient sureties, in double the sum which such person shall have been adjudged to pay or forfeit, upon condition to prosecute such appeal with effect, and to be forthcoming to abide the judgment and determination of the justices in their said next general or quarter sessions; which recognisance the said justice or justices before whom such conviction shall be had is hereby empowered and required to take; and the justices in the said general or quarter sessions are hereby authorised and required to hear and finally determine the matter of the said appeal, and to award such costs as to them shall appear just and reasonable to be paid by either party; and if upon the hearing of the said appeal the judgment of the justice or justices before whom the appellant shall have been convicted shall be affirmed, such appellant shall immediately pay the sum which he or she shall have been adjudged to forfeit, together with such costs as the justices in the said general or quarter sessions shall award to be paid for defraying the expences sustained by the defendant or defendants in such appeal; or in default of making such payments shall suffer the respective pains and penalties by this Act inflicted upon persons respectively who shall neglect to pay or shall not pay the respective sums or forfeitures by this Act to be paid by or imposed upon persons respectively who shall be convicted by virtue of this Act.

XXII. And be it further enacted by the authority aforesaid, That no person who by virtue of this Act shall be punished for any offence or offences by him her or them committed, shall be punished for the same offence or offences under any other law or statute.

[General Issue.] [Double Costs.]

XXIII. [Clause in Act 24 G. II. c. 24. extended to Justices acting under this Act.]—[Notice to be given to Peace Officer before commencing suit against him.]

—[Tender of Amends may be made by him, and pleaded in bar of the Action.]

—[If none or insufficient Tender has been made, Plaintiff, upon a Verdict, to recover.

[No. VIII.] 32 Geo. III. c. 59.—An Act to amend so much of two Acts made in the Twenty-sixth and Twenty-ninth Years of the Reign of his late Majesty King George the Second, as relates to the licensing of Alehouse-Keepers and Victuallers; and for better regulating

Alehouses, and the Manner of granting such Licences No. VIII.
in future; and also of granting Licences to Persons 32 Geo. III.
selling Wines to be drank in their Houses. c. 59.

WHEREAS by an Act passed in the twenty-sixth year of the reign of his late Majesty King George the Second, intituled *An Act for regulating the Manner of licensing Alehouses in that Part of Great Britain called England, and for the more easy convicting Persons selling Ale and other Liquors without Licence*, it was amongst other things enacted, That if any licensed person should die or remove from an alehouse, it should be lawful for the person succeeding to such house to keep on the said alehouse during the residue of the term of such licence, on condition that within thirty days after such death or removal such person shall obtain such certificate as in the said Act is mentioned, to be signed by some neighbouring justice in order to its being produced at the general meeting in September; and if such certificate should not be obtained and signed within the said thirty days, then immediately from and after the expiration thereof such licence should be null and void: and whereas by a certain other Act passed in the twenty-ninth year of the reign of his late Majesty, intituled *An Act for granting to his Majesty a Duty upon Licences for retailing Beer Ale and other exciseable Liquors; and for establishing a Method for granting such Licences in Scotland, and for allowing such Licences to be granted at a Petty Session in England, in a certain Case therein mentioned*, it was (amongst other things) enacted, That if any person so licensed to sell ale beer or other exciseable liquor should die or remove from the alehouse or other place wherein such ale beer or other liquor should by virtue of such licence be sold, it should and might be lawful for the executors administrators and assigns of such person dying or removing who should be possessed of such house or place, or the occupier thereof, to sell ale beer or other liquors therein during the residue of the term for which such licence should have been granted to the person so dying or removing, without any certificate from any justice of the peace or any new licence to be had or obtained in that behalf, any thing in the said Act made in the twenty-sixth year of the reign of his late Majesty or any other law to the contrary thereof in anywise notwithstanding. And it was by the said Act further enacted, That in case any alehouse or victualling-house in that part of Great Britain called England should become empty or unoccupied after the general day appointed for licensing (the occupier whereof was duly licensed the year preceding,) it should be lawful for any two or more of his majesty's justices of the peace at a petty session to grant a licence to any new tenant or occupier to open such house as an alehouse or victualling-house and to sell ale there till the next general licensing day, so as the said licence be stamped as therein directed, such new tenant or occupier obtaining such certificate as is directed and prescribed in and by an Act of Parliament made in the twenty-sixth year of his Majesty's reign, intituled *An Act for regulating the manner of licensing Alehouses in that Part of Great Britain called England, and for the more easy convicting Persons selling Ale and other Liquors without Licence*: And whereas it is expedient that some other provision should be made respecting the continuance of the licences of alehouses or victualling-houses in cases of persons so dying or removing thereout as aforesaid, and that some further regulation should be made respecting the granting of licences for the sale of ale beer and other liquors by retail, and for the better government of alehouses or victualling-houses in that part of Great Britain called England, the dominion of Wales, and the town of Berwick upon Tweed: Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That the above recited provisions in the said Acts of the twenty-sixth and twenty-ninth years of his late Majesty's reign, so far as the same relate to such parts of Great Britain, shall be and

32 Geo. III.
c. 59.

Preamble.
Provisions of
26 Geo. 2. c. 31.
and

29 G. 2. c. 12.
recited.

Recited Provisions repealed so far as they relate to England, Wales, and Berwick upon Tweed.

No. VIII.
32 Geo. III.
c. 59.

From July 31, 1792, if Ale-house-keepers die or remove, &c. before the Expiration of their Licences, new ones may be granted to Executors or new Tenants, till the next licensing day, on certain Conditions.

Certificates and Recognisances required by this Act to be sent to the Clerk of the Peace to be recorded.

In Middlesex and Surrey, the Justices at the General Licensing Meetings to appoint special ones, &c.

the same are hereby repealed; and that from and after the thirty-day of July one thousand seven hundred and ninety-two, if any person duly licensed to keep an alehouse inn victualling-house or to sell beer or other excisable liquors by retail in any house within that part of Great Britain called England, the dominion of Wales, or the town of Berwick upon Tweed, shall happen to die before the expiration of such licence, or if any person so licensed or the executors administrators assigns of any person dying so licensed, shall remove from or yield up the possession of such house in which such ale beer or other liquors shall by virtue of such licence be sold, and shall assign such licence, or in case any such house shall become empty or unoccupied, the last occupier whereof was duly licensed at the last general licensing day September previous to the time such house became empty or unoccupied (1), then and in every such case (except as herein is otherwise provided) it shall and may be lawful for two or more of his Majesty's Justices of the peace for the county riding division or place at a periodical session to be holden within and for the same division in which such house shall be situate, to grant a licence to the executors administrators assigns of the person so dying who shall be possessed of such house, to any new tenant or occupier upon such removal, or the house becoming empty or unoccupied as aforesaid, to open or continue open such house as an alehouse or victualling-house, and to sell ale beer and other liquors aforesaid there till the next general licensing day, so as the said licence stamped (2) as by the aforesaid statutes in that behalf is directed; or if the said justices in their discretion to allow to such executors or administrators or other persons aforesaid, possessed of any such licence, to continue open such house for the purpose aforesaid under and by virtue of such licence until the expiration thereof, every such executor administrator or assign and every such tenant or occupier respectively in every such case obtaining within thirty days after such death or removal, or after he or her entering upon the possession of such house and producing to the said justices such certificate and entering personally into such recognisance with such sureties as is directed by the said in part recited Act of the twenty-sixth year of his said late Majesty, in respect to persons to whom licences are to be granted by virtue of the said Act; which said certificate and recognisance, with the condition thereof fairly written or printed and attested by the justices granting or allowing such licence, shall forthwith or at the next general or quarter sessions of the peace at farthest after granting such licences be sent or returned to the clerks of the peace to be by them or other persons acting as such duly entered or filed among the records of the sessions of the peace.

II. Provided always, and be it further enacted by the authority aforesaid, That in the respective counties of *Middlesex* and *Surrey* the justices assembled at the general licensing meetings holden for the respective divisions within the same shall have full power and authority, and they are hereby directed and required, to appoint not less than six nor more than eight special days of meeting at different equal periods as near as may be in each year next ensuing such general licensing meetings; on which days it shall and may be lawful for two or more justices acting in

(1) In the editions of Burn, published since the passing of this Act, it is observed, that where the tenant intending to remove hath not taken out a licence for that year, his successor may obtain a licence until the next licensing day by applying to the justices, and making it appear to them that he is a person proper to receive a licence, and also making it appear that the house is proper to be licensed, whereof the proof must be, its having been licensed the year next before. But there is nothing in the Act itself to warrant the construction that if the house is actually occupied at the general licensing day, but no licence is applied for, much less if a licence has been applied

for and refused, any licence can be granted in the course of the year upon a change of tenant. This power is expressly confined to cases where the house was duly licensed on the licensing day previous to the time when it became empty.—An opinion to the same effect has been given by the present Solicitor-General (Sir S. Shepherd) the magistrates of the county of Lancaster.—This observation was correct as originally applied to Burn to the Statute 29 G. 2. c. 12. hereby repealed.

(2) By statute 48 Geo. 3. c. 143. Post No. 1 the stamp duties on licences are repealed, and Excise licences substituted for them.

and for the said divisions to meet and to grant or continue licences in the aces and in the manner and for the time herein-before mentioned; and the justices assembled at the said general licensing meetings are hereby directed and required to cause due notice to be given of the times and places at which such special meetings shall respectively be holden.

III. And be it further enacted by the authority aforesaid, That if any person so licensed as aforesaid within the said counties of *Middlesex* and *Surrey*, or the executors administrators or assigns of any person dying so licensed, shall remove from such house or yield up the possession thereof in manner aforesaid, or in case any such house within the respective counties aforesaid shall be or become empty or unoccupied in manner aforesaid, then and in every such case before such licence shall be continued, or a new licence granted to open or continue open any such house as an alehouse inn or victualling-house, the person or persons so succeeding as the occupier or occupiers thereof shall appear at the next special meeting to be holden for the division wherein such house shall be situated; and the justices assembled at such special meeting shall and may (upon such certificate being produced to them, and such recognisances being entered into as is herein-before mentioned) grant a licence to such new tenant or occupier, or in their discretion allow a continuance of any licence before granted in manner aforesaid, to open or continue open such house as an alehouse inn or victualling-house, and to sell ale beer and other exciseable liquors there until the next general licensing-day; any thing in the Act contained to the contrary thereof notwithstanding.

IV. Provided always and be it enacted, That nothing in this Act contained shall extend or be construed to extend to empower any justices of the peace at any petty sessions to grant any new licence to any house, the occupier whereof was not duly licensed at the general licensing day next before such petty sessions as aforesaid.

licensing at the General Licensing Day.

V. Provided always and be it further enacted, That nothing herein contained shall extend or be construed to extend to alter the time or times of granting licences for keeping of common inns or alehouses, or to oblige persons not licensed the year preceding to produce certificates in the city of *London*.

persons not licensed the Year preceding, obliged to produce Certificates in *London*.

VI. And be it further enacted by the authority aforesaid, That every person so entering into the possession of any licensed alehouse inn or victualling-house who shall sell any ale beer or other exciseable liquors, unless authorised and empowered so to do by the justices at the petty sessions next ensuing after the expiration of such thirty days in the manner herein-before directed, shall from thence be liable to all the penalties punishments and forfeitures to which persons selling ale beer or other liquors by retail without a licence are subject by an Act passed in the fifth year of the reign of his present Majesty, intituled, *An Act for altering the Stamp Duties upon Admissions into Corporations or Companies, and for further securing and improving the Stamp Duties in Great Britain*; any law statute or usage to the contrary notwithstanding.

VII. Provided always nevertheless, and be it further enacted, That the certificate herein-before directed to be obtained by the person or persons requiring to be licensed, shall after the obtaining thereof be an indemnity to him her or them for selling any beer ale or other exciseable liquors till after such petty sessions shall have been held.

VIII. And be it further enacted by the authority aforesaid, That in all cases where the continuance of a licence shall be allowed, or a new licence shall be granted as aforesaid, by the justices at any petty sessions, the clerk of the peace for the county riding division or place where the house is situate shall record the same, and shall be paid the sum of one shilling for recording the allowing or granting of every such licence and no more.

IX. And be it further enacted by the authority aforesaid, That from 1792, no Person to sell Wine by Retail, to be drawn in his House, without having a Beer Licence,

No. VIII.
32 Geo. III.
c. 59.

At which they may grant to licensed Persons removing, &c. and producing the necessary Certificates, &c. a Continuance of Licences, &c.

No new Licenses to be granted at Petty Sessions to Houses not

The Times of granting Licences not hereby altered, nor Persons

Persons entering into licensed Houses, without the Authority of the Justices liable to Penalty.

Persons obtaining the necessary Certificate, indemnified till the Petty Sessions.

Clerk of the Peace to record the Continuance of Licences, &c.

From Oct. 10,

No. VIII.
32 Geo. III.
c. 59.

Justices to have
the same Juris-
diction over
such Retailers
of Wine, as
they have over
Sellers of Beer.

Penalty for sell-
ing Wine by
Retail without
having a Beer
Licence.

5 Geo. 3. c. 45.

General Issue.

Treble Costs.

Not to extend
to the Vintners
Company, &c.

Freemen of the
Vintners Com-
pany by Re-
demption, after
Oct. 10, 1792,
not exempted
from this Act.

and after the tenth day of *October* one thousand seven hundred and nine two, it shall not be lawful for any person or persons whatever, in a county riding city borough town corporate or place in *Great Britain*, virtue of any licence or licences granted or to be granted by any of the commissioners or officers of Excise, for the sale of foreign wines or *British* made wines or sweets by retail, to sell the same by retail, to be drank in his her or their house or houses or place thereto adjoining or belonging except such person and persons only to whom a licence shall have been granted by justices of the peace or other officers to sell ale beer and other liquors in the same house or houses respectively; and the severall justices of the peace and all other officers in and throughout the kingdom of *Great Britain*, shall be and are hereby empowered and authorised to have and exercise the same jurisdictions powers and authorities over such retailers of foreign or *British* made wines or sweets, who shall sell the same to be drank in his her or their house or houses or place thereto adjoining or belonging as aforesaid, as they now have or exercise or are entitled to have or exercise over persons licensed to sell ale beer and other liquors by any statute whatsoever; and if any person or persons shall sell or cause to be sold by retail as aforesaid any foreign or *British* made wines or sweets, to be drank in his her or their house or houses or place thereto adjoining or belonging, without having a licence to sell ale beer and other liquors in the same house or place, every such person or persons shall severally and respectively forfeit and pay for every such offence the like penalty and penalties as are inflicted on persons for selling ale beer or other excisable liquors without a licence, by an Act made in the fifth year of the reign of his present Majesty, intituled, *An Act for altering the Stamp Duties upon Admissions into Corporations or Companies and for securing and improving the Stamp Duties in Great Britain*, to be as is judged recovered levied certified and applied in such and the like manner and under the like terms and with the like powers and authorities as the several penalties inflicted by the said Act are hereby or by any other Act or Acts of Parliament relating thereto directed to be adjudged recovered levied certified and applied.

X. And be it further enacted, That if any person or persons shall at any time be sued molested or prosecuted for any thing by him or them done or executed in pursuance of this Act, or of any clause matter or thing herein contained, such person or persons shall or may plead the general issue, and give the special matter in evidence for his or their defence; and if upon the trial a verdict shall be passed for the defendant or defendants, or the plaintiff or plaintiffs become nonsuited, then such defendant shall have treble costs awarded to him or them against such plaintiff or plaintiffs.

XI. Provided always, and be it further enacted by the authority aforesaid, That nothing in this Act contained shall extend or be construed to extend to any person who shall be a master warden freeman or one of the commonalty of the Vintners of the city of *London*; or to any person who shall be licensed by the chancellors or vice chancellors of the Universities in that part of *Great Britain* called *England*, or either of them; or to any person who shall keep one of the three several wine taverns within the borough of *Saint Albans* in the county of *Hertfordshire* licensed by the mayor and burgess thereof, according to the tenor of certain letters patent granted by Queen *Elizabeth* and King *James* the First for and towards the maintenance of the free school there: Provided nevertheless, That no person who, from and after the said tenth day of *October* one thousand seven hundred and ninety-two, shall be admitted to the freedom of the said company of Vintners of the city of *London* in redemption only, shall be exempted from the obligation of obtaining a licence to retail ale beer and other liquors to be granted in manner aforesaid, but that the freemen only of the said company who have been ready admitted to their freedom, or who from and after the said tenth day of *October* one thousand seven hundred and ninety-two shall be admitted to their freedom in right of patrimony or apprenticeship shall be entitled to such exemption.

[No. IX.] 35 Geo. III. c. 113.—An Act for the more effectual Prevention of selling Ale and other Liquors by Persons not duly licensed.—[26th June 1795.]

No. IX.
35 Geo. III.
c. 113.
35 Geo. III.
c. 113.
5 Geo. 3. c. 46.
in part recited.

WHEREAS by an Act made in the fifth year of the reign of his present Majesty, intituled *An Act for altering the Stamp Duties upon Admissions into Corporations or Companies, and for further securing and improving the Stamp Duties in Great Britain*; after reciting that by the laws then in force in that part of *Great Britain* called *England* and dominion of *Wales* and town of *Berwick upon Tweed*, persons selling ale or beer or other exciseable liquors by retail without licence were liable and subject by different laws to different penalties and punishments, which had occasioned much confusion, and an ill and improper use had been made thereof in many instances; For the prevention whereof it was enacted, That from and after the fifth day of *July* one thousand seven hundred and sixty-five, every person lawfully convicted of selling ale or beer or other exciseable liquors by retail after that day in that part of *Great Britain* called *England* the dominion of *Wales* or town of *Berwick upon Tweed*, without being duly licensed so to do, should for every such offence forfeit and undergo the several penalties and punishments therein-after mentioned and provided in that behalf, instead and in lieu of the several pecuniary and corporal punishments which they were then liable or subject to by any law then in force; that is to say, For the first offence the sum of forty shillings, and also the costs and expences of convicting such offender; and in case such sum, together with the charges and expences of convicting such offender, should not be paid within the space of fourteen days next after such conviction, that then the offender should suffer imprisonment for the space of one month, unless he or they should sooner pay such penalty and the costs charges and expences of such conviction and executing the same; and for the second offence the sum of four pounds, and also the costs and expences of convicting such offender; and in case such sum, together with the charges and expences of convicting such offender the second time, should not be paid within the space of one week next after such conviction, then the offender should suffer imprisonment for the space of two months, unless he or they should sooner pay such penalty of four pounds and the costs charges and expences of such second conviction and executing the same; and for the third offence the sum of six pounds, and also the costs and charges of convicting such offender; and in case such sum of six pounds, together with the charges and expences of convicting such offender the third time, should not be paid within the space of three days next after such third conviction, that then the offender should suffer imprisonment for the space of three months, unless he or they should sooner pay such penalty of six pounds and the costs charges and expences of such third conviction and executing the same, and the like penalty and punishment for every other offence after the third offence and conviction thereof as for the said third offence; all which said costs and expences should be assessed settled and ascertained by the justice or justices of the peace before whom such offenders should respectively be convicted; any law statute or custom to the contrary thereof in any wise notwithstanding; all which penalties and forfeitures should go and be paid, the one moiety thereof to his Majesty his heirs and successors, and the other moiety thereof and also the costs charges and expences to be assessed or ascertained as aforesaid to the prosecutor or prosecutors of every such offender or offenders: And whereas by reason of many evasions still made use of, and of defects in the powers of the laws now in force, it is difficult to convict offenders against them: For remedy whereof, be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That so much of the said Act as is above recited shall be and is

Recited Part of
5 Geo. 3. c. 46,
repealed.

No. IX.
35 Geo. III.
c. 113.

From Sept. 20,
1795, Persons
selling or per-
mitting to be
sold in their
Houses excise-
able Liquors by
Retail without
Licence, liable
to penalty.

Justices may
determine
Complaints.

If Penalties be
not paid, they
may be levied
by Distress.

Officers to exe-
cute Warrants
agreeably to
27 Geo. II.
c. 20 ;

the Provisions
of which, and of
33 Geo. 3. c. 55.
as to Execution
of Warrants, so
extend to this
Act.

hereby repealed; and that from and after the twentieth day of September one thousand seven hundred and ninety-five if any person shall sell ale or beer or any other exciseable liquors by retail, or shall permit or suffer any ale or beer or any other exciseable liquors to be sold by retail in his her or their house outhouse or yard garden orchard or other places, in that part of Great Britain called England the dominion of Wales and town of Berwick upon Tweed, without being duly licensed so to do, and shall thereof be duly convicted, every such person so offending shall for every such offence forfeit and pay the sum of twenty pounds, and also the costs and expences attending the conviction, to be levied and recovered as herein is directed; and on and after a second conviction for the like offence shall also be rendered incapable of being thereafter licensed to keep an alehouse or to sell ale or beer or other exciseable liquors by retail.

II. And be it further enacted by the authority aforesaid, That it shall and may be lawful for any one or more justice or justices of the peace for the time being of the county riding division or place where such offence shall be committed to hear and determine the same in a summary way; which said justice and justices is and are hereby respectively authorised and required, upon information exhibited or complaint made to or before him or them in that behalf, to summon the party or parties accused and also any person or persons as a witness or witnesses on either side, and upon appearance, or contempt by not appearing, of the party or parties accused, to proceed to hear the matter in a summary way and also to examine any witness or witnesses on oath and to give judgment therein; and upon proof of the offence either by confession of the party or parties or upon the oath of one or more credible witness or witnesses to convict the party or parties so accused or complained against of the offence laid to his her or their charge; and in case the party or parties so convicted shall not, at the time and place of conviction if present, (or if absent) within the space of three days after notice, either personally served upon the party or parties or left for him her or them at the place where the offence shall have been committed, according to the directions of this Act, pay the penalty or penalties for which he she or they shall stand convicted, together with the costs and expences attending the same, which said costs and expences shall be ascertained and fixed by the justice or justices convicting the offender or offenders; that then and in every such case it shall be lawful for such justice or justices and he and they is and are hereby required to issue his or their warrant or warrants of distress, empowering the person or persons to whom the same shall be directed to make distress of the goods and chattels of such offender or offenders wheresoever they shall or may be found, within the jurisdiction of the justice or justices convicting such offender or offenders, and also any goods and chattels found or being in the house outhouse cellar vault storehouse or other place in which such offence shall have been committed, or which shall be found or be in any house outhouse cellar vault or other storehouse belonging to or occupied therewith, or which shall be found or be in any house outhouse cellar vault storehouse or other place which shall have been entered at the Excise office for keeping or laying any beer or ale cyder or perry therein by or in the name or names of such offender or offenders; and on the goods and chattels so distrained the officer or officers executing such warrant or warrants as aforesaid shall proceed to levy the sum or sums expressed in such warrant or warrants in manner directed in and by an Act made in the twenty-seventh year of the reign of his late Majesty King George the Second, intituled *An Act for the more easy and effectual Proceeding upon Distresses to be made by Warrants of Justices of the Peace*, and all the powers and provisions of the said Act; and also of an Act made in the thirty-third year of the reign of his present Majesty, intituled *An Act to authorise Justices of the Peace to impose Fines upon Constables Overseers and other Peace and Parish Officers for Neglect of Duty; and on Masters of Apprentices for ill Usage of such their Apprentices; and also to make Provision for the Execution of Warrants of Distress granted by Magistrates;*

as the same relate to the execution of warrants of distress, shall be applied and put in execution in relation to warrants of distress to be granted by virtue of this Act, as fully and amply as if the same powers and provisions had been severally repeated and re-enacted in this Act.

III. Provided always and be it further enacted, That at the request of the owner or owners of the goods so distrained the same may be sold at any time within the four days allowed by the said Act of the twenty-seventh year of his late Majesty.

IV. And be it further enacted, That there shall be paid and allowed to the officer or officers executing such warrant or warrants of distress for the safe keeping of the goods and chattels so distrained, for each day such goods and chattels shall be in his or their custody, such sum not exceeding five shillings *per diem*, and for any person or persons acting therein in the aid and assistance of such officer or officers, such sum not exceeding two shillings *per diem* for each such person as the convicting justice or justices shall allow and direct to be paid, due proof being first made on oath to the satisfaction of such justice or justices that sufficient cause existed for calling in the aid and assistance of such person or persons.

V. And be it further enacted, That one moiety of the penalty so levied shall be paid to the informer and the other moiety thereof to the use of the poor of the parish township or place in which the offence shall have been committed, in such manner as the justice or justices as aforesaid shall direct and appoint; and if the person or persons authorised to execute such warrant or warrants or any or either of them shall make a return thereto that no sufficient distress can be found whereon to levy the penalty and costs and charges as aforesaid, then it shall and may be lawful for any justice or justices of any county riding division or place within whose jurisdiction the party or parties against whose goods and chattels such warrant of distress shall have been issued shall at any time be found, upon producing to such justice or justices such warrant and return thereof, (and if such justice or justices shall be of any other county riding division or place, then upon oath made of the hand-writing of the justice or justices granting such warrant of distress and of the truth of such return) to commit such offender or offenders to the common gaol or other prison within the limits of his or their jurisdiction, for any term not exceeding six calendar months nor less than three calendar months, unless the said penalty or penalties, with the costs charges and expences of all proceedings attending the conviction and warrant of distress shall be sooner paid and satisfied.

VI. And whereas many persons do presume to carry on and exercise the trade of alehouse-keeper and victualler and retailer of beer and ale without licence, and to make entry of houses outhouses cellars vaults or warehouses, for laying or keeping such beer or ale by assumed or feigned names, and such beer and ale is frequently retailed in houses, outhouses or other places detached from their place of residence, whereby the purposes of the law have been and still continue to be evaded; Be it further enacted, That in case any summons shall be issued by any justice or justices of the peace for any person or persons to appear and answer to any information or complaint for selling by retail any beer or ale or other excisable liquors without licence, the directing such summons to such person by the name in which such person shall have entered any house outhouse cellar vault or storehouse for laying or keeping of beer or ale, or in the names by which such person or persons is or are or has or have been usually known, whether the same be the real and proper or the assumed or feigned names of such person or persons; and the leaving such summons at the house outhouses cellar vault or other storehouse or place in which such offence is stated in any information to have been committed, and affixing a copy thereof on the door or other conspicuous part on the outside thereof, (such service being proved on oath of the person or persons who shall have so served such summons, and so affixed such copy,) shall be deemed and is hereby declared

No. IX.

35 Geo. III.
c. 113.

Distress may
be sold within
Four Days.

Allowance to
Officers.

Application of
Penalty.

If sufficient
Distress cannot
be found, the
Justice may
commit the Offender.

What shall be
deemed legal
Notice to Per-
sons summoned
to answer In-
formations for
selling Liquors
by Retail with-
out Licence.

No. IX.
35 Geo. III.
c. 113.

Retailers to
make previous
Entry of all
Places used for
laying Beer, &c.

Penalty of 50*l*.
for not making
Entry.

Places not en-
tered, to be
deemed con-
cealed Places.

Beer, &c. and
Goods and
Chattels, found
where any Of-
fence is com-
mitted, &c. to
be liable to Dis-
tress.

Persons mak-
ing Entry to be
deemed Re-
tailers.

Justices may
summon Excise
Officers to pro-
duce Entries and Stock Books, and may examine them on Oath ;

to be as legal and effectual a notice or summons to all intents and purposes, as if the same was personally given or delivered to or unto the hands of the party or parties to whom the same shall be directed ; and as if the same was directed to the party or parties by his her or their proper and real name or names.

VII. And be it further enacted, That every alehouse-keeper victualler or retailer of beer or ale, who shall take or receive into or have in his her or their custody possession or power any beer or ale to sell or dispose thereof by retail, shall at least three days before he she or they shall begin so to sell or dispose of any such ale or beer, make a true and particular entry in writing at the office of Excise next to the place where such ale or beer shall be intended to be sold and disposed of, of all and every house outhouse cellar vault room store-house or other place used or to be used for laying or keeping any such beer or ale or for selling the same ; and which said entry shall set forth the true name or names of the person or persons so making such entry, and shall also express whether the person making the same be an alehouse-keeper victualler or retailer ; and such person or persons shall be deemed to be the occupier or occupiers proprietor or proprietors of all and every house outhouse cellar vault room storehouse or other place so entered for laying or keeping such ale or beer or for selling the same, so long as such entry shall remain in force or such ale or beer shall be or remain in the custody possession or power of the person or persons making such entry ; and if any person or persons shall, contrary to the directions of this Act, make use of any house outhouse cellar vault room storehouse or other place, for the laying keeping or selling of beer or ale to be sold or disposed of by retail, without having made such entry as aforesaid, he she or they shall respectively forfeit for every default or neglect the sum of fifty pounds, to be sued for and recovered levied mitigated and distributed in such manner as is directed by any law now in force with regard to penalties and forfeitures on offences against the laws relating to the Excise ; and all storehouses cellars rooms or other places used by any such innkeeper victualler or other retailer, for the purpose of laying or keeping any beer or ale or worts in cask without being so entered, shall be deemed and taken to be private and concealed storehouses cellars or places, within the meaning of all each and every Act and Acts of Parliament now in force in relation to private and concealed storehouses cellars or places for the keeping or laying exciseable liquors.

VIII. And be it further enacted, That all beer ale cyder perry and other exciseable liquors, together with all other goods and chattels found in every and any house outhouse cellar vault storehouse or other place where any such offence as aforesaid shall have been committed, or in any house outhouse cellar vault storehouse or other place belonging thereto or occupied therewith, or which shall have been entered as aforesaid at the Excise Office, for laying or keeping therein any beer or ale cyder or perry, by or in the name or names of the person or persons convicted, by whom or by what title or conveyance soever the same may be claimed, shall be liable to such warrant or warrants of distress to satisfy all penalties costs and charges incurred by any person or persons for any offence or offences committed within or upon the same premises or any part thereof as aforesaid ; and it shall be lawful to levy the penalties and costs and charges, and use such proceedings in respect of the same, as it is lawful to do in case the offender or offenders had been truly and really the owner or owners or proprietor or proprietors of the same.

IX. And be it further enacted by the authority aforesaid, That every person who shall make any entry at any office of Excise of any house outhouse cellar vault storehouse or other place for laying or keeping of any beer or ale, or for selling the same therein as an alehouse-keeper victualler or retailer, shall be deemed a seller by retail of such liquors to all intents and purposes ; and that it shall and may be lawful for any justice of the peace from time to time to summon before him or before any other justice or justices any entry keeper gauger or other excise officer having

trustody of entries made by innkeepers victuallers and retailers of beer or ale within his division, who shall, when required, produce before any justice or justices all and every entry or entries made at the office of Excise by any person or persons within the division of such officer, and also the stock books or other accounts of survey of such persons respectively; and such justice or justices shall and may examine on oath such officer or officers respecting any such entry or entries of any houses outhouses cellars vaults storehouses or other places for keeping beer or ale, or respecting any stock of any person or persons making such entries; and if it shall appear that any person hath made entry or entries at the office of Excise of any house outhouse cellar vault storehouse or other place for laying or keeping any beer or ale therein, or for selling the same as an alehouse-keeper victualler or retailer, or if it shall appear that any such person is surveyed as an alehouse-keeper victualler or retailer and has not received or is not entitled to receive the abatement of duty allowed to common brewers, then and in such case it shall and may be lawful for such justice or justices to summon before him or them such person or persons to produce to such justice or justices his her or their licence or licences to sell beer and ale, and if such person or persons shall not at the return of such summons appear before such justice or justices, or appearing shall not produce to such justice or justices a licence or licences duly obtained and in force, it shall be lawful for such justice or justices (proof being made of due service of such summons according to this Act, in case the party or parties shall not appear) to adjudge the party or parties guilty of selling beer or ale by retail without licence, and the party or parties so adjudged shall be liable to the penalties herein imposed on persons retailing beer or ale without licence.

X. And be it further enacted, That if any person shall be summoned to appear as a witness to give evidence before any justice or justices of the peace touching the matters aforesaid, either on the part of the prosecutor or of the person or persons accused, and shall neglect or refuse to appear at the time and place to be for that purpose appointed without a reasonable excuse for such his or her neglect or refusal, (to be allowed by such justice or justices of the peace,) or appearing shall refuse to be examined on oath and give evidence to such justice or justices of the peace before whom the prosecution shall be depending, then that every such person shall forfeit for every such offence the sum of ten pounds to be levied by warrant of distress; and if no sufficient distress can be found then the said justice or justices before whom and in whose contempt the offence was committed shall and may commit such offender to the common gaol or other prison within his or their jurisdiction for any term not exceeding the space of six calendar months, unless the penalty shall be sooner paid; and such penalty shall be applied to the use of the poor of the parish township or place in which such offence shall have been committed in such manner as the justice or justices so convicting shall direct and appoint.

XI. And be it further enacted, That if any person or persons whatsoever, after service of any summons to appear and answer to any charge of selling ale or beer or other excisable liquors without licence shall convey away any goods or chattels herein-before made liable to any warrant of distress from the house outhouse cellar vault storehouse or other place wherein such offence shall have been committed, or from any house outhouse cellar vault storehouse or other place belonging thereto or occupied therewith, or from any house outhouse cellar vault or other storehouse or place which shall have been entered at the office of Excise by or in the name or names of the person or persons convicted for keeping or laying of beer or ale or for selling the same; it shall and may be lawful for the officer to whom such warrant is directed, or other person or persons lawfully empowered or acting in his aid or assistance, within thirty days after such conveying away to seize the same wherever they may be found, and dispose of them in such manner as if they had been distrained on the premises: Provided always, that if any of the goods or

No. IX.
35 Geo. III.
c. 113.

and may summon Retailers to produce Licences; and for not producing them, may adjudge the Defaulters guilty.

Penalty of 10*l*. on Witnesses not attending Summonses, to be levied by Distress, and if sufficient cannot be found, the Party may be committed.

Application of Penalty.

Goods liable to Seizure may be distrained wherever found.

Justices may

indorse Warrants for seizing Goods removed into their Jurisdictions.

No. IX.

38. Geo. III.
c. 113.

chattels so removed shall be carried into any county riding city liberty or place out of the jurisdiction of the magistrate or magistrates originally issuing such warrant of distress, it shall be lawful for any justice of the peace of any county riding city liberty or place into which such goods or chattels shall be so removed or conveyed, and he is hereby required on proof on oath of the hand-writing of such justice or justices originally signing such warrant to indorse his name on the back thereof, which shall be sufficient authority to any person or persons bringing such warrant, and to all other persons to whom such warrant was originally directed to execute such warrant of distress, and to proceed in such manner as if such goods had been found and seized within the jurisdiction of the justice or justices who signed the original warrant.

Appeal may be made to the Quarter Sessions within a certain Time, and on certain Conditions.

Sessions finally to determine Appeals, and may adjudge Costs.

Convictions in the Form set forth by 26 Geo. II. cap. 31. to be good.

Justices may mitigate Penalties.

Inhabitants may be Witnesses.

Penalties to be determined in Six Months.

XII. And be it further enacted, That if any person shall think himself or herself aggrieved by the judgment of any justice or justices of the peace by or before whom he or she shall have been convicted of the offences aforesaid, any and every such person may appeal (and the said justice or justices are required to make known to such person at the time of such conviction his or her right to appeal) from and against such conviction to the next general quarter sessions of the peace to be holden for such county riding city division liberty or place, unless such sessions shall be holden within six days next after such conviction shall be made, and in such case to the next subsequent sessions to be holden as aforesaid and not afterwards, such person at the time of such conviction giving to such justice or justices notice in writing of his or her intention to appeal, and also giving security, to the satisfaction of such justice or justices, for the payment of the penalty costs and expences aforesaid, in case such judgment shall be confirmed on such appeal, and also further entering into a recognisance at the time of such notice with sufficient sureties conditioned to try the appeal, and to abide the judgment and pay such costs as shall be awarded by the justices assembled at such sessions; and the justices so assembled shall thereupon proceed to hear and determine the matter of every such appeal, and their judgment thereon shall be final and conclusive to all intents and purposes whatsoever; and in case the justices of the peace so assembled at such session shall find and adjudge any such appeal to be frivolous or vexatious, it shall and may be lawful to and for them to give and adjudge to the party or parties grieved by such appeal his her or their reasonable costs and charges occasioned thereby, not exceeding in the whole the sum of five pounds on any one appeal.

XIII. And in order to prevent frivolous and vexatious appeals be it further enacted by the authority aforesaid, That a conviction in the form or to the effect expressed and set forth in an Act made in the twenty-sixth year of the reign of his late Majesty King George the Second, intituled *An Act for regulating the Manner of licensing Alehouses in that Part of Great Britain called England, and for the more easy convicting Persons selling Ale and other Liquors without Licence, mutatis mutandis*, as the case shall happen to be, shall be good and effectual to all intents and purposes whatsoever, without stating the case or the facts or evidence in any more particular manner.

XIV. And be it further enacted, That if it shall be proved to the satisfaction of the justice or justices before whom any person shall be convicted of any offence against this Act, that such person hath not been before convicted of any offence against this Act, it shall be lawful for such justice or justices to mitigate and lessen the penalty hereby imposed, in case of such first offence but not otherwise, so as that the penalty so mitigated and lessened shall not be less than ten pounds.

XV. Provided always, and be it enacted, That any inhabitant of any parish township or place in which any offence shall be committed contrary to this Act, shall be deemed a competent witness, notwithstanding his or her being an inhabitant of such parish township or place.

XVI. Provided always, and it is enacted, That all penalties within this Act shall be sued for and determined within six months after the offences shall be committed.

XVII. Provided also; and be it enacted, That nothing in this Act com-
menced shall extend or be construed to extend to prohibit any person or
persons from selling of any ale or beer in booths or other places, at the
the and place of holding any lawful and accustomed fair, in like man-
ner as such person or persons was or were authorised to do before the
passing of this Act, by virtue of any law or statute in that behalf.

Act not to pro-
hibit selling Ale or Beer at Fairs.

No. IX.

35-Geo. III.
c. 113:

—

No. X.] 38-Geo. III. c. 54.—An Act to amend several
Laws of Excise relating to Coachmakers, Auctioneers,
Beer and Cyder exported, Certificates and Debentures,
Stamps on Hides and Skins, Drawbacks on Wines and
Sweets, and Ale and Beer Licences.—[21st June 1798.]

P.

XIII. AND whereas by an Act made in the thirty-fifth year of the
reign of his present Majesty, intituled *An Act for the more
effectual Prevention of selling Ale and other Liquors by Persons not duly
licensed*, it was enacted, That no person should sell ale or beer by retail,
in his her or their house in that part of Great Britain called England,
without being duly licensed so to do under a certain penalty therein
provided: And whereas it is expedient to exempt persons from the said
penalty, for or in respect of any such sale of beer or ale as is herein-
after mentioned; Be it therefore enacted by the authority aforesaid,
That no person shall be liable to the said penalty for or by reason of his
or their selling or disposing of beer or ale in casks containing not less
than five gallons, or in bottles not less than two dozen reputed quart bot-
tles, not to be drank in his her or their house outhouse yard garden
orchard or other place; any thing in the said recited Act contained to the
contrary in anywise notwithstanding.

38 Geo. III.
c. 54.

35 Geo. 3.
c. 113, recited.

Penalty in re-
cited Act not to
extend to Beer
or Ale sold in
Casks contain-
ing not less than

Five Gallons, or in Bottles not less than Two Dozen Quarts.

[No XI.] 39 Geo. III. c. 86.—An Act for ascertaining
the Rate of Duty to be paid for Retail Spirit Licences;
and for authorising the Justices of the Peace for any County
to grant Licences to sell Ale-Beer or other Liquors by Retail,
in Cities and Places where a sufficient Number of Magistrates
cannot be found qualified to grant such Licences.—[12th July
1799.]

P.

III. AND whereas by an Act passed in the sixth year of the reign of
King George the First, intituled *An Act for preventing Frauds
and Abuses in the Publick Revenues of Excise, Customs, Stamp Duties,
Post Office, and House Money*, it is enacted, That all and every person
or persons whatsoever, who shall have in his or her custody any brandy
arrack rum spirits or strong waters exceeding the quantity of sixty-
three gallons, shall be deemed and taken to be a-seller of and dealer in
brandy arrack rum spirits and strong waters, and subject to the survey
of the Excise: And whereas by an Act passed in the twenty-sixth year
of the reign of King George the Second, intituled *An Act for the more
effectually preventing the fraudulent Removal of Tobacco by Land or
Water, and for the Ease of the fair Trader in Tobacco; and for ascertaining
the Rates payable for the Postage of certain Letters; and for amending and
explaining the Laws relating to the Sale of Spirituous Liquors by Retail*,
it is enacted, That no justice of the peace, being a common brewer of
ale or beer innkeeper or distiller or other seller of or dealer in ale or any
kind of spirituous liquors, or interested in any of the said trades or
businesses, or being a victualler or malster, shall during such time as he
shall be such common brewer innkeeper distiller victualler or malster,
or seller of or dealer in ale or other spirituous liquors, or interested in

39 Geo. III.
c. 86.

6 Geo. 1. 21.

26 G. 2. c. 13.

No. XI.
39 Geo. III.
c. 86.

In any Place where the Corporate Justices are by the two last recited Acts disqualified to grant Licences for retailing Liquors, the Justices for the County at large may grant them at the Request of the Chief Magistrate.

'any of the said trades or businesses, be capable of or have any power to grant any licence or licences to any person or persons for selling ale or beer or any other liquors by retail: And whereas in divers corporate cities towns and places wherein foreign spirituous liquors are imported into this kingdom certain persons exercising corporate offices and others can grant licences for selling ale or beer or any other liquors by retail therein, and it may happen that so many of the justices and magistrates thereof may be disqualified from granting such licences by force of the said recited Acts, or that a sufficient number of persons exercising such corporate offices for the time being may not be qualified to act therein according to the said Act, which may be productive of great inconvenience, and may be injurious to the publick revenue; For remedy whereof be it further enacted, That from and after the passing of this Act, in case it shall happen that in any city town or place any of the corporate justices or magistrates thereof for the time being shall not be capable of acting in granting such licence as aforesaid, by reason that any such justice or magistrate or justices or magistrates therein, is or are a seller or sellers of or a dealer or dealers in any foreign spirits, then and in every such case it shall be lawful for any justice or justices of the peace acting in and for the county at large, within which such city town or place shall be situate or next adjoining thereto, at the request in writing of the chief magistrate of any such city town or place, to act as a justice or justices magistrate or magistrates within such city town or place, for the purpose of granting licences to sell ale beer or other liquors by retail in such corporate city town or place, instead of the justice or justices or magistrate or magistrates thereof disqualified as aforesaid; any act or acts, or any law custom or usage to the contrary notwithstanding; and all such justices so required to act as aforesaid shall be entitled to exercise the powers and jurisdictions of a magistrate within such city town or place for the purpose of granting such licences as aforesaid, and in all things relating thereto, and shall be deemed and taken to be a magistrate of such city town or place for the purposes aforesaid; but that such justice or justices shall not have any authority power or jurisdiction in such city town or place by virtue of this Act, other than and for the purposes herein-before mentioned.

[No. XII.] 48 Geo. III. c. 143.—An Act to repeal the Stamp Duties on Licences granted by Justices of the Peace for selling Ale, Beer and other Exciseable Liquors by Retail; and for granting other Duties in lieu thereof.—[2d July 1808.]

48 Geo. III.
c. 143.
Stamp Act.
44 Geo. 3. c. 98.
Schedule (A).

Duties on Licences to sell Ale, &c. under recited Act repealed.

'WHEREAS by an Act passed in the forty-fourth year of the reign of his present Majesty, intituled *An Act to repeal the several Duties under the Commissioners for managing the Duties upon Stamped Vellum, Parchment and Paper in Great Britain, and to grant new and additional Duties in lieu thereof*, certain stamp duties were imposed on licences granted by any justice or justices of the peace or other magistrate or magistrates for selling ale beer or other exciseable liquors by retail: And whereas it is expedient that the said duties should be repealed, and other duties granted in lieu thereof, to be placed under the management of the commissioners of Excise; Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That from and after the tenth day of October one thousand eight hundred and eight all and singular the said duties shall cease and determine; save and except in all cases relating to the receiving or paying any arrears thereof respectively which may at any time remain unpaid, or to any fine penalty or forfeiture fines penalties or forfeitures relating thereto respectively, which shall have been incurred at any time before or on the said tenth day of October one thousand eight hundred and eight.

II. And be it further enacted, That from and after the said tenth day of *October* one thousand eight hundred and eight, all and every person or persons who shall sell beer or ale by retail, or who shall sell cyder or perry to be drank or consumed in his her or their house or premises, shall, before he she or they shall sell any beer or ale by retail, or any cyder or perry to be drank or consumed in his her or their house or premises, take out an excise licence authorising such person or persons to sell beer or ale by retail, and also cyder and perry to be drank or consumed in his her or their house or premises; which licence shall be granted in manner herein-after mentioned; (that is to say) if any such licence shall be taken out within the limits of the chief office of Excise in *London*, the same shall be granted under the hands and seals of two or more of the commissioners of Excise in *England* for the time being, or of such persons as they the said commissioners of Excise or the major part of them for the time being shall from time to time appoint or employ for that purpose; and if any such licence shall be taken out in any part of *England* not within the said limits, the same shall be granted under the respective hands and seals of the several collectors and supervisors of Excise within their respective collections and districts; and in case any such licence shall be taken out within the limits of the city of *Edinburgh*, the same shall be granted under the hands and seals of two or more of the commissioners of Excise in *Scotland* for the time being; or if any such licence shall be taken out in that part of *Great Britain* called *Scotland*, out of the said limits of the city of *Edinburgh*, then the same shall be granted under the respective hands and seals of the several collectors and supervisors of Excise in *Scotland*, within their respective collections and districts; and the said commissioners of Excise in *England* and *Scotland* respectively, or any two or more of them respectively, and the persons to be appointed or employed by the said commissioners of Excise in *England* or *Scotland* respectively or the major part of them, and also all such collectors and supervisors are hereby respectively authorised and required to grant such licences to the persons who shall apply for the same, on the person or persons so applying first paying for such licence a duty of two pounds two shillings to be applied and accounted for as herein-after directed.

III. And be it further enacted, That the duty by this Act directed to be paid for such licences shall be paid at such places or to such persons as are herein-after in that behalf respectively mentioned; (that is to say) for licences which shall be taken out within the limits of the chief office of Excise in *London*, the same shall be paid at the chief office of Excise in *London*; and for licences which shall be taken out within the limits of the city of *Edinburgh*, the same shall be paid at the chief office of Excise in *Edinburgh*; and for licences which shall be taken out in any part of *Great Britain* not within the said respective limits, the same shall be paid to the respective collectors of Excise granting such respective licence; and all licences which shall be granted under and by virtue of this Act to any person or persons to sell beer and ale by retail, and cyder and perry to be drank or consumed in his her or their house or premises, shall remain and continue in force until and upon the tenth day of *October* next ensuing the time of granting thereof and no longer.

IV. Provided always and be it further enacted, That in all cases where the licence or authority granted by any justices of the peace or magistrates or other competent persons, to any person or persons to keep a common inn alehouse or victualling-house, shall under or in pursuance of any charter custom or usage be issued at any time of the year except in the month of *September*, and terminate or expire at any time of the year except in the month of *September*, then and in every such case the excise licence required by this Act to be taken out for the sale of beer ale cyder or perry, shall be taken out within ten days next after the date of the said licence or authority of the justices of the peace magistrates or other competent persons, and such excise licence shall continue in force for twelve calendar months next ensuing the date of the commencement thereof, any thing in this Act to the contrary in anywise notwithstanding.

V. And be it further enacted, That no person or persons shall sell any Licences shall be renewed within 10 Days after Expiration

No. XII.
48 Geo. III.
c. 148.

After 10th 1
October, 1808,
in Great Bri-
tain, such Li-
cences shall be
granted by
Commissioners
of Excise at the
Head Offices,
and by Collec-
tors in the
Country.

Licence Duty,
2l. 2s.

Duty on such
Licences shall
be paid to the
Head Office, or
to the Collec-
tors.

Duration of
Licence 10th
October yearly.
Time of taking
out Licences in
certain Cases of
Charters, &c.

No. XII.
18 Geo. III.
c. 143.

Penalty 50l.

Executors and
Assignees may
have the bene-
fit of Licences.

beer or ale by retail, or any cyder or perry to be drank or consumed in his her or their house or premises after the expiration of such his her or their excise licence, unless such person or persons shall take out a fresh licence for the said purposes in the manner herein-before directed with ten days after the expiration of such former licence, and so in like manner renew every such licence from year to year; or if any person or persons shall sell any beer or ale by retail or any cyder or perry to be drank or consumed in his her or their house or premises, without first taking out an excise licence authorising him her or them so to do, or without renewing the same as is herein in that behalf directed, he she or they shall for every such offence forfeit the sum of fifty pounds.

VI. And be it further enacted, That upon the death of any person licensed or upon the removal of any person or persons so licensed from the entered house or premises in which such his her or their excise licence shall authorise him her or them to sell beer or ale by retail, cyder or perry to be drank or consumed in his her or their house or premises, it shall be lawful for the commissioners of Excise in *England* and *Scotland* respectively for the time being, or any one or more of them and to and for the several collectors and supervisors of Excise in *England* and *Scotland* respectively within their respective collections and districts, upon the production of a certificate of a justice of the peace or magistrate or other competent person, given after the death or removal of the former occupier of the house or premises, approving of the person or persons to whom such certificate shall be given, to authorise and empower such person or persons in like manner to sell beer and ale by retail or cyder and perry to be drank and consumed in his her or their house or premises, in the same house or premises where such person so licensed by virtue of such excise licence carried on such trade during the residue of the term for which such licence was originally granted, without taking out a new excise licence during the residue of the said term. Provided always, That persons trading in partnership and in one house or premises only shall not be obliged to take out more than one excise licence to sell beer and ale by retail or cyder and perry to be drank or consumed in his her their house or premises, in any one year; and that no one licence which shall be granted by virtue of this Act shall authorise or empower any person or persons to sell beer or ale by retail or cyder or perry to be drank and consumed in his her or their house or premises, in any other house or premises than the house or premises in which he she or they shall sell or have sold beer or ale or cyder or perry at the time of granting such licence.

Licences shall
not be granted
except to Per-
sons allowed by
Magistrates.

VII. Provided always, and be it further enacted, That neither his Majesty's commissioners of Excise in *England* or *Scotland* respectively, nor any persons who shall be appointed or employed by the said commissioners in *England* to grant licences to persons for selling beer or ale by retail or cyder or perry to be drank or consumed in the house or premises of the person or persons applying for such licence, nor any of the collectors or supervisors of Excise, shall grant or deliver any licence to sell beer or ale by retail or cyder or perry to be drank or consumed in the house or premises of the person or persons applying for such licence or any licence to sell spirituous liquors or strong waters or wine or liquors by retail to any person or persons who shall not produce a licence or authority granted to him her or them in due form of law by justices of the peace or magistrates or other competent persons, to such person or persons to keep a common inn alehouse or victualling-house, and every such licence or authority shall be in the form following; *videlicet*,

Form of Magis-
trate's Allow-
ance;

County of } At a general meeting for the holden
at within the said on
the day of for
the purpose of authorising and empowering persons to keep common
inns alehouses or victualling-houses, We
being his Majesty's Justices of the Peace for the
or Magistrates of [as the case may be] do hereby authorise and empower
A. B. at the sign of in the of

in the aforesaid, to keep a common inn alehouse or victualling-house, and to utter and sell in the house in which he now dwelleth and in the premises thereunto belonging and not elsewhere, victuals and all such exciseable liquors as he shall be licensed and empowered to sell under the authority and permission of any excise licence which shall be duly granted by the commissioners of Excise or persons to be appointed or employed by them for that purpose, or by any collector and supervisor of Excise respectively, provided that the true assize in bread in beer ale cyder and all other liquors be duly kept, and that no unlawful game or games or any drunkenness or other disorder be suffered in his house yard garden or premises, but that good order and rule be maintained and kept therein according to the laws of this realm in that behalf made: the authority and power hereby granted to continue in force for one whole year from the day of

and no longer

Signed.

VIII. Provided always, and be it further enacted, That nothing in this Act shall extend or be construed to extend to repeal or alter or in any manner to affect any law or laws or any provision in any charter or statutes or any privilege of any city or town corporate or of any university now in force or lawfully used or exercised in relation to the granting of licences by any justices magistrates or other persons authorized by law to grant licences for persons keeping common inns alehouses or victualling-houses; or in relation to the taking of any recognizances upon granting of any such licences or requiring or doing any other act matter or thing relating to any such licences: Save and except as to the payment of duties and form of licence as aforesaid, or to repeal or alter any Act or Acts of Parliament as to the sale of table beer at a price not exceeding three halfpence per quart.

"Licences granted before October 10, 1808, shall continue in full force for the term for which granted. § 9."

X. And be it further enacted, That nothing in this Act contained shall extend to diminish or alter any fees heretofore lawfully taken and received by any clerks of any justices or magistrates; but it shall be lawful to continue to demand and take such and the like fees and no other or different fees for licences to keep any common inn alehouse or victualling-house as have heretofore been taken by such clerks in that behalf.

XI. And be it further enacted, That every person having any licence to keep a common inn alehouse or victualling-house, who shall be disabled by any conviction from keeping a common inn alehouse or victualling-house shall also by such conviction be disabled from selling any beer or ale by retail or cyder or perry to be drank or consumed in his her or their house or premises, under any excise licence obtained for such purposes; and every such excise licence shall from the time of such conviction be null and void to all intents and purposes; and in all cases of prosecution of any such persons whose excise licences shall have become null and void by such conviction, a certificate from the clerk of the peace or person acting as such of any such conviction shall be legal evidence; which certificate such clerk of the peace or other person is hereby authorized and required to grant on demand without fee or reward.

XII. And be it further enacted, That all fines penalties and forfeitures imposed by this Act shall be sued for recovered levied or mitigated by such ways means or methods as any fine penalty or forfeiture may be sued for recovered levied or mitigated by any law or laws of excise, or by action of debt, bill, plaint, or information in any of his Majesty's courts of record at Westminster, or in the Court of Exchequer in Scotland respectively; and that one moiety of every such fine penalty or forfeiture shall be to his Majesty, his heirs and successors, and the other moiety to him or them who shall inform discover or sue for the same.

"Powers of former Excise Acts extended to this Act. § 13. Duties shall be carried to Consolidated Fund of Great Britain. § 14."

Vol. VII.

* C

No. XII.
48 Geo. III.
c. 143.

Saving for Regulations as to Licences by Magistrates in Corporations, &c.

Clerks to Justices may take Fees as heretofore.

Persons disabled from keeping Alehouses by Conviction, shall thereby forfeit Licence under this Act.

Recovery and Application of Penalties.

No. XIII.

3 Geo. IV.

c. 77.

[No. XIII.] 3 Geo. IV. c. 77.—An Act for amending the Laws for regulating the manner of Licensing Alehouses in that part of the United Kingdom called *England*, and for the more effectually preventing Disorders therein.
—[26th July 1822.]

WHEREAS the several statutes now in force for regulating the manner of licensing persons to keep alehouses, or to sell ale beer and other liquors by retail therein, in that part of the United Kingdom called *England*, are found to be defective and insufficient, and it is expedient that the laws concerning such alehouses inns and victualling-houses, and the licensing thereof, should be amended, and some further provisions made as to the mode of granting such licences: Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That from and after the passing of this Act, every person to whom the justices of the peace or magistrates shall grant a licence or authority to keep a common inn alehouse or victualling-house, or to sell ale, beer, cyder, perry, or other excisable liquors by retail, within that part of the United Kingdom called *England*, shall, upon such licence or authority being granted or issued, enter into a recognizance to the King's Majesty, his heirs and successors, in the sum of thirty pounds, with one sufficient surety in the sum of twenty pounds, or two sufficient sureties in the sum of ten pounds each, which recognizance, with the condition thereof, shall be in the form prescribed by the schedule to this Act marked (A.); and in case the person applying for such licence shall be hindered through sickness or infirmity, or any other reasonable cause, to attend in person at the meeting of the same justices or magistrates for granting the said licences or authorities, that then it shall be lawful for them to grant such licence or authority upon two sufficient sureties entering into such recognizance, each surety in the penalty of thirty pounds, for performance of the condition of the said recognizance, and which said recognizance shall be acknowledged in the presence of the majority, and signed by at least two of the justices or magistrates present at any such meetings for granting licences or authorities, and the same, with the condition thereof, fairly written or printed, shall forthwith, or at the next general or quarter session of the peace at farthest, after granting such licence or authority, be sent or returned to the clerk of the peace, or person acting as such, for every county, riding, city, liberty, town corporate, or place in that part of the United Kingdom called *England*, wherein such licences or authorities shall be granted, to be by the said clerk of the peace, or such other person acting as such, duly entered or filed amongst the records of the sessions of the peace; and that for every such licence or authority granted without taking such recognizance, and for every such recognizance taken and not sent or returned as aforesaid, every justice of the peace or magistrate signing such licence or authority shall forfeit and pay the sum of three pounds six shillings and eight-pence; and every such licence or authority to be granted by justices of the peace or magistrates, after the passing of this Act, shall be in the form prescribed by the schedule to this Act marked (B.): Provided always, that no police officer, patrol, constable, or headborough shall be surety for any inn-keeper alehouse-keeper or victualler under this Act.

II. And for the better preventing the granting of licences or authorities to unfit and improper persons, to keep alehouses or victualling-houses, or to sell ale beer or other excisable liquors by retail, and the occurrence of disorderly conduct in such houses; Be it further enacted, That no licence or authority for such purposes shall be granted to any person not thereunto licensed or authorized the year preceding, unless such person shall produce, at the general annual meeting of the justices or magistrates to be held for that purpose, a certificate under the hands of the

Requiring Persons to whom any Licence shall be granted to enter into Recognizances in the Form prescribed by Schedule (A.)

In case Persons applying for Licences shall be prevented by Sickness, &c., from attending the Justices, then Justices may grant same on taking Security.

Penalty for granting Licence without Recognizance. Licence to be in the Form in Schedule (B.)

Certificate of good Conduct, &c., to be produced by Persons applying for Licences.

non vicar or curate, or of the major part of the churchwardens chapelwardens and overseers of the poor, and of four reputable and substantial householders and inhabitants, or under the hands of eight respectable and substantial householders and inhabitants of the parish or place where the person applying for such licence or authority shall have last inhabited or dwelt for a space of six months; which certificate shall set forth the number of the house, and the name of the street, or other true description of the house where such person so dwelt, and also whether he or she was there a housekeeper or an inmate, and whether such person in such last-mentioned parish or place, kept an alehouse or victualling-house, and if so, the sign of such house; and shall also set forth, that such person is of good fame, sober life and conversation, and a fit and proper person to be entrusted with a licence for the purposes aforesaid; and it shall be mentioned in every such licence or authority, to be granted to any person not licensed at the last general licensing day, that such certificate was produced; and in case such certificate, in the form designed in the manner aforesaid, shall not, on the occasions aforesaid, be produced, or the licence to be granted in such last-mentioned case shall omit to state that such certificate was so produced, such licence or authority shall be null and void; and every such certificate so granted to be produced on such occasions as aforesaid, shall be annexed to the recognizance to be entered into by the person receiving or obtaining such licence or authority as aforesaid, and shall with such recognizance be sent or returned to the clerk of the peace, or person acting as such as aforesaid: Provided always, that if any person shall forge or counterfeit any certificate, or write any name on any such certificate, to resemble imitate or represent the name of any person vicar or curate, or any churchwarden, chapelwarden, overseer of the poor, or other person directed by this Act to sign such certificate, with an intent to deceive the justices of the peace granting or having power to grant such licences or authorities, or shall tender or produce any paper with such counterfeit name or writing thereupon, knowing such name or writing to be counterfeit, with intent to deceive the said justices, or shall take or receive any money or sums of money for signing or procuring signatures to any such certificate, every person so offending, being thereof lawfully convicted, shall be adjudged to be guilty of a misdemeanor, and shall suffer punishment accordingly.

III. And be it further enacted, That the recognizance, in the form and with the surety or sureties hereby required to be entered into on granting licences or authorities to persons to keep alehouses or victualling-houses, or to sell ale beer or other exciseable liquors by retail, and the certificate in the form and with the signatures hereby required to be produced, by persons not licensed for those purposes the preceding year, shall also be entered into and produced by persons applying for and obtaining such licences or authorities, at any special meeting of the justices to be holden for those purposes, pursuant to the directions of the statute made and passed in the thirty-second year of the reign of his late Majesty King George the Third, intituled *An Act to amend so much of Two Acts, made in the Twenty-sixth and Twenty-ninth Years of the Reign of His Majesty King George the Second, as relates to the licensing of Alehouse keepers and Victuallers, and for better regulating Alehouses, and the manner of granting such Licences in future, and also of granting Licences to persons selling Wines to be drank in their Houses.*

IV. And be it further enacted, That the register or calendar required by law to be kept by clerks of the peace, of recognizances to be taken and returned by justices of the peace, on granting such licences as aforesaid, shall contain the names and places of abode of the several sureties who shall so enter into such recognizances; and that as well as the entries of the names of such sureties, as of the other particulars of such recognizances already required to be registered, shall and they are hereby required to be entered by the respective clerks of the peace, or other persons acting as such, to whom such recognizances shall be returned; and that for every recognizance there shall be paid, by the clerk or clerks to

No. XIII.

S Geo. IV.

c. 77.

Persons forging
or receiving
Money for
Certificates to
be guilty of a
Misdemeanor.

Recognizances
to be presented
to Justices at
Special Meet-
ings to be held
for that Pur-
pose.

32 G. 3. c. 59.

Names of Sure-
ties to be en-
tered in a Book.

No. XIII.
3 Geo. IV.
c. 77.

Registers of
Sureties open
to public in-
spection.

Fees to be paid
for Licences.

Penalty on tak-
ing more than
regular Fees,
5*l*.

Executors, &c.,
of licensed Per-
son may be
continued in
Possession of
such Licence,
upon entering
into the like
Recognizances.

the justices taking such recognizances, to the said clerk of the p their fee for filing or recording the said recognizances and for such entry thereof, and of the names or name of the sureties or s be thereby bound, and for making and delivering copies of the sa ter, as by law required, the sum of two shillings and no mor shall be paid to the clerks of the said justices by the persons l over and above the fees payable by law to the said justices' clerks shall be lawful for any person or persons on application, at all sea times, to see inspect and examine every such register, so to be the said clerks of the peace, on payment or tender made by the p persons requiring the same, to such clerks of the peace, of the sum shilling for every such inspection or examination.

V. And be it further enacted, That from and after the passing Act it shall and may be lawful to and for the clerks to the seve times of the peace, to be assembled at any general annual meeting purpose of granting licences or authorities to persons to keep ale or to sell ale beer or other exciseable liquors by retail, in that part United Kingdom called *England*, and also at any special meeting like purposes to be held pursuant to the directions of the said Ac thirty-second year of the reign of his said late Majesty, to ask c and receive of and from every person to whom a licence or author the purposes aforesaid, shall be granted renewed or continued, as the trouble of such clerks in filling up such licence or authority, a ing and returning the recognizance to be so entered into, the sum shillings and no more, over and above the fees directed to be paid several clerks of the peace for filing such recognizances; and in ca clerk to such justices, or other person acting as such, shall dem take or receive of or from any person to whom such licence or au as aforesaid shall hereafter be granted, or renewed or continued, for his fee or reward for the trouble of preparing the same, and and returning such recognizance as aforesaid, any further or grea or reward or recompence than the said sum of five shillings, every so offending shall for every such offence, and on conviction on th of one credible witness, forfeit and pay the sum of five pounds, sued for, recovered, levied, and applied, in the same manner as any pecuniary penalty imposed by this Act may be sued for, recovered and applied.

VI. And be it further enacted, That from and after the passing Act, if any person duly licensed to keep an alehouse or victualling- or to sell ale beer or other exciseable liquors by retail, in any within that part of the United Kingdom called *England*, shall die the expiration of such licence, or if any person so licensed, or the tors administrators or assigns of the person dying so licensed, remove from or yield up the possession of such house in which su beer or other liquors shall by virtue of such licence be sold, and assign such licence, or in case any such house shall become em unoccupied, the late occupier whereof was duly licensed at the la neral meeting previous to the time such house became empty or up pired, it shall and may be lawful for two or more of his Majesty's ju of the peace, or persons acting as such for the county, riding, city, li town corporate, or place, at a special day of meeting to be holden and for the same division or place in which the house shall be situ grant a licence or authority to the executors administrators or assi the person so dying who shall be possessed of such house, or to an tenant or occupier upon any such removal, or upon the house becc unoccupied as aforesaid, to open or continue open such house as a house or victualling-house, or to sell ale beer or other liquors by re aforesaid therein, till the tenth of *October* then next ensuing, so a person applying for such licence or authority shall produce such cate and enter into such recognizance with such surety or sureti herein-before directed; and every such recognizance to be taker entered into at such special day of meeting, and every such certifica to be produced, shall be returned to the respective clerks of the peace

in the same manner as the recognizances and certificates to be taken and produced at the said general annual meetings of the said justices are directed or sure to be returned.

said no. VII. And be it further enacted, That from and after the passing of more, in this Act, all general annual meetings of the justices or magistrates, for the purpose of granting licences to sell ale beer and other exciseable liquors by retail, as well in cities and towns corporate as in all other places season within that part of the United Kingdom called *England*, shall be held in the month of *September* in each and every year; any local custom or personage to the contrary thereof in anywise notwithstanding.

in of no. VIII. Provided always, That all persons who hold licences to sell ale beer and other liquors by retail, which would expire at a different period of the year from that at which they will expire after the passing of this several Act, shall be allowed in the payment of their duties, upon the first re-licence for renewal of their licences under this Act, for so much of their current year's licence as shall not have then expired.

of the IX. And whereas by the laws now in force in that part of the United Kingdom called *England*, persons selling ale beer or other exciseable liquors by retail, are liable and subject to different penalties and punishments for disorderly conduct committed or permitted or suffered in their city, towns; and by an Act made and passed in the twenty-sixth year of the reign of his late Majesty King *George the Second*, intituled *An Act for regulating the Manner of licensing Alehouses in that Part of Great Britain called England, and for the more easy convicting Persons selling Ale and Beer without Licence*, it is enacted, that any justice of the peace for any county, riding, city, liberty, or town corporate, wherein such licence shall be granted, upon complaint or information that such licensed person had done or committed any act offence or misdemeanor, whereby

the judgment of the same justice the recognizance of such licensed person might be forfeited, or the condition thereof broken, might by summons under his hand and seal require such person so complained of or person informed against to appear at the next general or quarter sessions of the peace for the said county, riding, city, liberty, or town corporate, then to appear and there to answer the matter of such complaint or information, and also might bind the person or persons so making such complaint or information, or any other person or persons, in a recognizance to appear at such general or quarter sessions, and give evidence against such persons

complained of or informed against; and the justices of the peace, in their general or quarter sessions, should have full power to direct the jury which should attend at such sessions for the trial of traverses, or some other jury of twelve honest and substantial men, to be then and there impanelled by the sheriff, without fee or reward, to inquire of the misdemeanor charged in the said complaint or information, and if such jury should find that the person so complained of or informed against had done any Act whereby the condition of his recognizance was broken, such Act being specified in such complaint or information, it should or might be lawful for the court, at such general or quarter sessions, to adjudge such person guilty of the breach of such recognizance, which verdict and adjudication should be final to all intents and purposes; and thereupon the said justices should order the recognizance entered into by such offender to be estreated into his Majesty's Court of Exchequer, to be levied to his Majesty's use; and that the said person, the condition of whose recognizance should be so adjudged to be broken and forfeited, should, from and after such adjudication, be utterly disabled to sell any ale, beer, cyder, perry, spirituous liquors, or strong waters, for the space of three years; and any licence or licences granted or to be granted to such person during such term should be void and of none effect; be it further enacted by the authority aforesaid, That so much of the said recited Act of the twenty-sixth year of his late Majesty King *George the Second*, as relates to the forfeiture of the recognizance of any person licensed to keep a common alehouse or victualling-house, or to sell ale beer or other exciseable liquors by retail, and the subsequent disability of such party on such adjudication to hold a licence for the space of three years, be and the same is hereby repealed;

No. XIII.

3 Geo. IV.

c. 77.

All General Annual Meetings to be in September.

Allowance to be made for the Time unexpired of Licences on their Renewal.

26 G. 2. c. 31.

Recited Act in part repealed.

No. XIII.
3 Geo. IV.
c. 77.

Repeal of cer-
tain Acts and
Parts of Act.
1 J. 1. c. 9.
7 J. 1. c. 10.
21 J. 1. c. 7.
1 C. 1. c. 4.
30 G. 2. c. 24.

Offending
against Con-
dition of Re-
cognizances.

Penalties im-
posed for First
Offence not ex-
ceeding 5*l*.

Second Offence
not exceeding
10*l*.

Third Offence
not exceeding
100*l*.

and also that from and after the passing of this Act, the several statutes and Acts, and parts of statutes and Acts following, shall be repealed; (that is to say,) so much of a statute passed in the first year of the reign of King James the First, as relates to penalties and punishments of inn-keepers, victuallers and alehouse-keepers for the offences therein mentioned; and also so much of two statutes passed in the seventh and twenty-first years respectively of the reign of King James the First, as relates to the disabling persons to keep an alehouse for three years in the cases therein mentioned; and also so much of a statute passed in the first year of the reign of King Charles the First, as relates to the penalty on alehouse-keepers and victuallers therein mentioned; and also so much of an Act passed in the thirtieth year of the reign of King George the Second, as relates to the penalty on persons licensed to sell any sorts of liquors in the case therein mentioned, and which said several Acts and parts of Acts are hereby repealed accordingly; and that from and after the passing of this Act, every licensed person selling ale beer or other excisable liquors by retail, in that part of the United Kingdom called England, who shall be lawfully convicted of any offence against the condition of any subsisting recognizance entered into by such licensed person, or against the tenor of any licence granted, and now subsisting, or hereafter to be granted, or against the condition of the recognizance by this Act required to be entered into by such licensed person, or against the tenor of the licence to be granted by virtue of this Act, shall for every such offence forfeit and undergo the several penalties and punishments and disabilities herein-after mentioned and provided in that behalf, instead and in lieu of the several pecuniary and other punishments and disabilities which they are now or immediately before the passing of this Act were liable or subject to by any law then in force; (that is to say), for the first offence a sum not exceeding five pounds, with the costs and expences of convicting such offender; and in case the said penalty, with the costs and expences of convicting such offender, shall not be paid within the space of fourteen days next after such conviction, that then the offender shall suffer imprisonment for the space of one month in the common gaol or house of correction for the county, riding, city, liberty, town corporate, or place where such conviction shall take place, unless he or she shall sooner pay such penalty and the costs charges and expences of such conviction, and executing the same; and for the second offence a sum not exceeding ten pounds, and also the costs and expences of convicting such offender; and in case such penalty, with the charges and expences of convicting such offender the second time, shall not be paid within the space of seven days next after such second conviction, that then the offender shall suffer imprisonment for the space of two calendar months, in such common gaol or house of correction as aforesaid, unless he or she shall sooner pay such second penalty, and the costs charges and expences of such second conviction, and executing the same; and for the third offence against the tenor of such licence or recognizance, it shall be lawful for any one justice of the peace of any county, riding, city, liberty, or town corporate, or place wherein such licence shall be granted, and it is hereby required of him, upon complaint or information on oath that such licensed person hath committed such third offence, to issue a summons under his hand and seal, requiring such person so complained of or informed against for such last-mentioned offence to appear at the next general or quarter sessions of the peace for the county, riding, city, liberty, town corporate, or place wherein the person so complained of or informed against shall reside, then and there to answer to the matter of such complaint or information, and also to bind the person or persons who shall make such complaint or information, or any other person or persons, in a recognizance to appear at such general or quarter session and give evidence against such person so complained of or informed against; and the justices of the peace in their general or quarter sessions of the peace shall have power to direct the jury which shall attend at such sessions for the trial of traverses, or some other jury of twelve honest and substantial men, to be then and there impannelled by the sheriff bailiff or other chief officer, without fee or reward, to inquire of the misdemeanor charged in the said

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last-mentioned complaint or information; and if such jury shall find that a person so complained of or informed against hath committed any act against the tenor of the said recognizance, such act being specified in the said complaint or information, and such person so complained of or informed against having been twice previously convicted for offences against the tenor of the said licence and recognizance, it shall and may be lawful for the court at such general or quarter sessions to adjudge such person guilty of a third offence against the tenor of and a breach of the said recognizance, which verdict and adjudication shall be final to all intents and purposes; and thereupon the said justices shall have power and authority to punish the party so to be convicted by fine, not exceeding the sum of one hundred pounds, or at the discretion of the said court to declare the said recognizance so entered into by the said offender to be forfeited, or immediately to adjudge the licence or authority granted to such offender to be forfeited and void; and on such last-mentioned adjudication on such verdict, such licence shall from thenceforth be void accordingly, and every licence then held by such offender to sell spirituous liquors, cyder, perry, or *British* sweets, shall thereupon also be void; and the said person, the condition of whose recognizance shall be so adjudged to be broken and forfeited, shall from and after such last-mentioned adjudication be utterly disabled to sell ale, beer, cyder, perry, spirituous liquors, or strong waters, for the space of three years, to be computed from the time of the offence committed for which such adjudication shall be pronounced; and any licence or licences granted or to be granted to such person during such term, to be computed as aforesaid, shall be void and of no effect; Provided, that the said justices may, at the request of the prosecutor or party so complained of or informed against, or either of his or her sureties, and upon sufficient cause shown, adjourn the hearing and trial of the said complaint or information to the then next general or quarter sessions of the peace, when the same shall be finally determined: Provided always, that no recognizance under this Act shall be declared to be forfeited, unless upon being directed so to be by the said court of general or quarter sessions, upon such third conviction as aforesaid; and provided also, that if such licensed person or persons so complained of or informed against for such last-mentioned offence shall not appear at the next general or quarter sessions of the peace pursuant to the summons, it shall and may be lawful for the justices in their general or quarter sessions assembled, on proof of the service of such summons, to inquire into the matter alleged, and on proof thereof to proceed against the person or persons so summoned and not appearing, in the same manner as if such person or persons had appeared pursuant to his her or their recognizance.

Justices may
postpone Trials,
&c.

Recognizances
not forfeited
unless declared
so by Quarter
Sessions.

X. Provided always, and it is hereby declared and enacted, That on every such inquiry so directed to be made before a jury as aforesaid, the production of the recognizance entered into by the party complained against, or by his sureties, and filed with the clerk of the peace or person acting as such, shall be sufficient evidence of the fact of such party so complained against being a licensed victualler: Provided always, that if the jury to be impanelled to try the matter of such complaint or information shall, on such trial, find the party so complained of or informed against not guilty of the offence so laid to his or her charge, or if on the verdict of guilty by such jury the court shall adjudge the offender to be punished by fine, or by declaring the recognizance to be forfeited, instead of vacating the licence of such offender as aforesaid, the party so holding or possessing such licence shall nevertheless, after such adjudication of not guilty, or punishment by fine on a verdict of guilty, be liable to the same punishment and disability as any other licensed victualler who shall have been twice convicted of offences against the condition of his or her recognizance, on any subsequent complaint or information and inquiry thereon at such court of sessions, for any offence in breach of such recognizance and licence.

Production of
Recognizance
by Clerk of
Peace sufficient
Evidence of the
Person com-
plained of being
a Licensed
Victualler.

XI. And be it further enacted, That in all cases where complaint or
Clerks to Jus-
tices to be deemed Prosecutors.

No. XIII.
3 Geo. IV.
c. 77.

Expences to be
paid out of
County Rates.

Justices may
proceed in a
summary Way.

Persons con-
victed to be
committed for
Non-payment
of Penalties.

Penalty on
Witnesses not
attending when
summoned.

Securities may
be given and
taken for the
Payment of
Penalties.

Appeal.

information shall be made against any person so licensed as aforesaid for a third offence against the tenor of his or her recognizance, the justices of the peace before whom such complaint or information shall be made shall, if they shall deem such offence to amount to a breach of such recognizance, and they are hereby required, to order the subsequent proceedings at the sessions to obtain an adjudication on such complaint or information to be carried on by the clerk or clerks or the person or persons acting as such, to the general annual meetings of the justices for licensing alehouses and victualling-houses for the division or place where such house shall be situated; and such clerk or clerks are hereby authorized and required to conduct such prosecution accordingly; and the expences attending such prosecution shall and they are hereby directed to be borne and defrayed out of the rate or rates made and levied, or to be made and levied, for the maintenance of the poor of the parish or place where such offence shall be committed.

XII. And be it further enacted by the authority aforesaid, That it shall and may be lawful to and for two justices of the peace for the time being of the county or place where any of the offences against this Act for the commission of which pecuniary penalties are imposed shall be committed, to hear and determine the same offences in a summary way, which same justices of the peace are hereby authorized and required, upon any information exhibited or complaint made in that behalf to or before them, to summon the party or parties accused, and also the witnesses on either side (if they shall be required to summon any such witnesses), and upon the appearance or contempt of the party or parties accused by not appearing, to proceed to examine and hear the matter in a summary way, and also to examine such witnesses upon oath as shall be produced therein, (which oath the said justices are hereby empowered to give and administer), and to give their judgment thereon; and in case they shall convict the party or parties so accused or complained against of the offence laid to his her or their charge, and such party or parties so convicted shall refuse or neglect to pay the penalty or penalties for which he she or they shall stand convicted within the time herein-before mentioned for that purpose, together with the costs of such conviction or convictions, to be assessed settled and ascertained as aforesaid, that then and in every such case it shall and may be lawful for such justices, and they are hereby authorized and required, to issue their warrant or warrants under their hands and seals for the apprehending and committing to the common gaol or house of correction as aforesaid every such offender, for such time and in such manner as the nature of the offence shall require, according to the provisions aforesaid and the true intent and meaning of this Act.

XIII. And be it further enacted by the authority aforesaid, That if any person or persons shall be summoned as a witness or witnesses to give evidence before any such justices of the peace touching any of the matters aforesaid, either on the part of the prosecutor or of the person or persons accused, and shall neglect or refuse to appear at the time and place to be for that purpose appointed, without a reasonable excuse for such his her or their neglect or refusal, to be allowed of by such justices of the peace, or appearing shall refuse to be examined on oath and give evidence before such justices of the peace before whom the prosecution shall be depending, that then every such person shall forfeit for every such offence the sum of forty shillings, to be levied and paid in such manner and by such means as are herein-before directed as to other pecuniary penalties.

XIV. And be it further enacted, That if any person or persons shall think himself herself or themselves aggrieved by the judgment or conviction of any justices of the peace for any of the offences aforesaid, for the commission of which a pecuniary penalty is annexed, and shall give security to the satisfaction of such justices of the peace for the payment of the penalty costs and expences to be expressed in the said conviction, within twenty-four hours after the same shall be made, that then and in every such case after such security given, and not otherwise, it shall and may be lawful to and for such offender or offenders to appeal from and against

a conviction or convictions to the justices of the peace assembled at
 next general or quarter sessions of the peace to be held for such county,
 or division, liberty, city, town, or place, unless such sessions of the
 peace shall be held within six days or less next after such conviction or
 convictions shall be so had or made, and in that case to the justices of the
 peace to be assembled at the next sessions after such first-mentioned ses-
 sions, and not afterwards; and that the justices of the peace assembled
 at such sessions shall thereupon proceed to hear and determine the matter
 of every such appeal, and their judgment thereon shall be final and con-
 clusive to all intents and purposes whatsoever; and the justices of the
 peace so assembled at such sessions are hereby authorized and required
 to award such costs as to them shall appear just and reasonable to be paid
 by either party, not exceeding in the whole the sum of five pounds on any
 one appeal.

And in order to prevent frivolous and vexatious appeals, be it further enacted by the authority aforesaid, That a conviction in the form or to the effect following, *mutatis mutandis*, (as the case shall happen to be), be good and effectual to all intents and purposes whatsoever, without the case, or the facts or evidence in any more particular manner; as to say;)

E it remembered, That on this day of
 in the year A. B. of was duly
 convicted before us, C. D. and E. F., two of his Majesty's justices of
 the peace for the county or city of of an offence against
 the condition of a recognizance entered into by the said A. B. on
 obtaining a licence to sell ale beer or other exciseable liquors
 by retail, whereby he she or they has or have forfeited the sum of
 this being the first [or second offence, *as the case shall happen to*
] besides the costs and expences of this conviction, which costs and
 expences we the said justices of the peace do hereby ascertain and assess
 at the sum of pursuant to the statute in such case
 made and provided. Given under our hands and seals the day and year
 here written.'

And be it further enacted, That on every such conviction so to be made or made as aforesaid, the justices of the peace before whom the same shall be made, shall return the same to the next quarter sessions of the peace to be holden for such county, riding, division, liberty, city, town corporate or place, and the record of such conviction shall, unless the same shall be afterwards quashed on appeal as herein-before directed, stand in evidence against the party thereby convicted in any prosecution to be instituted against him or her or them for a third or other offence, in the nature of a third offence, constituting or to constitute a breach of the condition of his her or their recognizance entered into on obtaining a licence as herein-before directed; and the several clerks of the peace to whom such convictions shall be returned, shall immediately on such return make or cause to be made a memorandum or entry of such conviction in the calendar or register to be kept by them, of the names and places of abode of the several persons so licensed as aforesaid, and shall in each entry state whether such conviction be the first or second or other subsequent conviction of the offending party.

And be it further enacted, That from and after the tenth day of October one thousand eight hundred and twenty-three, no licence or authority shall be granted to any person whatever in that part of the United Kingdom called *England*, by the justices of the peace, or persons acting as such, to retail ale beer or other exciseable liquors, in any house or place which shall not have been used for such purpose or purposes by virtue of a licence which shall have been granted at a preceding general annual meeting of the justices, unless the person intending to apply for such licence or authority shall give notice in writing to the clerk or clerks of the justices at such general meetings, three calendar months prior to the general annual meeting of the justices of the peace for granting licences for the place in which the house shall be situated, for which such notice shall be given to the Clerk of the Peace, and affixed in the Manner

No. XIII.
3 Geo. IV.
c. 77.

**For preventing
vexatious Ap-
peals.**

**Form of Con-
viction.**

Convictions to be registered and stated as to being the First Second or Third Offence.

Licences not to be granted to any Person whose House shall not have been previously licensed at a preceding General Annual Meeting of the Justices; unless Notices of Application be therein directed:

No. XIII.

3 Geo. IV.

c. 77.

Justices not to
act as such
where person-
ally interested.

Penalty on Jus-
tices not offend-
ing.

Constables,
&c., disqualified
from holding li-
censed Houses.

No licensed
Person liable to
serve as Con-
stable.

licences shall be applied for, and shall affix or cause to be affixed three copies of such notice, written in a fair and legible hand, on the principal door or most conspicuous part of the house for which such licence is intended to be applied for, and on the door of the church of the parish in which such house shall be situated, on three several days within the months of *May* or *June*, between the hours of ten of the clock in the forenoon and of four of the clock in the afternoon, and between each of which days of affixing such notices the space of seven days shall elapse; which notice, and the copies thereof so to be affixed, shall be signed by the party interested in such house, and intending to make such application as aforesaid, or his her or their agent thereunto authorized; and every such notice shall state and set forth the situation of the said house in a true and particular manner, together with the rate of building thereof, when any such rate of building exists or is prescribed, and the name place or abode, and description of the party so applying, and also the name and place of abode of the person proposed to be licensed therein; and every licence to be granted to sell ale beer or other liquors by retail in such new house or other place, not having been used for any of the purposes aforesaid by virtue of a licence granted the preceding year, without such previous notice having been given as aforesaid, shall be void to all intent and purposes.

XVIII. And whereas it is expedient that persons empowered to grant licences by virtue of this Act should not be swayed by interest in the execution of such powers; be it therefore enacted by the authority aforesaid, That no justice of the peace or magistrate in any county, riding city, liberty, town corporate, or place, in that part of the United Kingdom called *England*, who is a brewer, malster, distiller, or dealer in or retailer of ale beer or other exciseable liquors, or is concerned in partnership with any person as a brewer, malster, distiller, or dealer in or retailer of ale beer or other exciseable liquors, or shall be the manager or agent of or for any house licensed or about to be licensed for any of the purposes aforesaid, at any of the time or times when any of the powers of this Act are to be executed, shall act in any of the meetings for granting of any licence or licences, authority or authorities, or shall convict or join in a conviction, or in the determination of any application for a licence or authority to a person to keep any house not before licensed, or in the determination of any appeal directed by this Act; and every justice of the peace or magistrate who shall knowingly or wilfully offend in any of the premises, shall for every such offence forfeit and pay the sum of one hundred pounds, to be recovered by any person who will sue for the same within six calendar months after such offence committed, by action of debt or on the case, or by bill suit or information, in any of his Majesty's Courts of Record, wherein no essoign protection or wager at law, nor more than one imparlance, shall be allowed; which said penalty of one hundred pounds shall be paid, one moiety thereof to the person who sues for the same, and the other moiety to the King's Majesty, his heirs and successors.

XIX. And be it further enacted, That from and after the tenth day of *October* one thousand eight hundred and twenty-three, all and every person and persons using and exercising, or that hereafter shall use and exercise the trade or business of a licensed victualler or alehouse-keeper or who shall sell ale beer or other exciseable liquors by retail, by virtue of any licence or authority, licences or authorities, already granted or hereafter to be granted by the justices of the peace in that part of the United Kingdom called *England*, for so long as he or they shall use and exercise the said trade or business, or shall hold such licence or licences, authority or authorities, and no longer, shall at all times hereafter be disqualified from serving the office of constable, headborough, police officer or patrol; and if at any time hereafter any such person or persons using the said trade or business, or holding and using such licence or licences, authority or authorities, shall be chosen or elected into the office of constable or headborough, that then such person or persons producing such licence or authority, or licences or authorities, to use and exercise the

trade of a licensed victualler or alehouse-keeper, or to sell ale beer her exciseable liquors by retail, duly issued pursuant to the provisions of this Act, or of any other Act law or charter now in force, to the persons by whom he shall be so elected or appointed, or by or to whom he shall be summoned returned or required to serve or hold said office of constable, shall be absolutely discharged from the same; such nomination, election, return, or appointment shall be utterly void of none effect, any order, custom, law, or statute to the contrary notwithstanding; nor shall any such person using or exercising the said trade or business of a licensed victualler, or to whom any licence or authority shall be granted for the purposes aforesaid, he shall so exercise the said trade, or hold and use such licence or authority, take upon himself, or serve or execute the office of deputy to a constable already chosen, or hereafter to be chosen and elected to office within that part of the United Kingdom called *England*, on pain of forfeiting, for every Act to be done committed or executed by him in the character of deputy to any such constable as aforesaid, the sum of ten pounds, to be recovered in manner herein-before directed by this Act.

XX. And be it further enacted, That from and after the tenth day of March one thousand eight hundred and twenty-two, all persons keeping or selling in inns alehouses or victualling-houses, and retailing ale and beer, shall sell the same in and from their houses by a full ale quart pint or half-pint, made of pewter, sized to the standard, and stamped or marked with the seal of due size according to the standard, either from the Exchequer, or from some city, town corporate, borough, or market town, where an ale quart pint or half-pint, made from the said standard, shall be kept for that purpose, and shall not retail any ale or beer in any other vessels than such stamped pewter ale quarts pints and half-pints, unless such ale or beer shall have been first measured in and by such stamped pewter quart pint or half-pint, in the presence of the guest or customer purchasing the same, under pain of forfeiting for every offence a sum not exceeding forty shillings (together with the costs of conviction), to be recovered within thirty days next after the committing of such offence, by any two justices of the peace acting for the county or place in which such offence shall have been committed, the one half to be paid to the person who shall prosecute or sue for the same, and the other half to the poor of the parish or place where such offence shall have been committed; and in case of the non-payment thereof, they shall cause the same to be levied upon goods and chattels of the offender, by warrant of distress under their hands and seals.

XXI. And be it further enacted, That from and after the passing of this Act, if any brewer or wholesale dealer in ale or beer, in that part of the United Kingdom called *England*, shall sell and deliver to any inn-keeper, alehouse-keeper, victualler, or other person whatsoever, any ale or beer, in barrels casks or other vessels which shall not be able to contain the full quantity of ale or beer for which the said brewer or wholesale dealer in ale or beer shall charge the purchaser thereof, such brewer or wholesale dealer in ale or beer shall forfeit and pay a sum not exceeding five pounds for every such barrel cask or other vessel so deficient in size as aforesaid, together with the costs of conviction, to be recovered by information before one justice of the peace, within thirty days next after the making of such charge, who, in case of the non-payment thereof, shall cause the same to be levied upon the goods and chattels of the party so offending.

XXII. And be it further enacted, That all fines penalties and forfeitures imposed by this Act, and for which no other means for recovering thereof are hereby provided, may be sued for and recovered by action of debt, bill, plaint, or information, in any of his Majesty's Courts of Record at Westminster; and that one moiety of all and every fine penalty or forfeiture by this Act imposed, and not expressly directed to be otherwise applied, shall be to his Majesty, his heirs and successors, and the

No. XIII.
3 Geo. IV.
c. 77.

Penalty for
serving as Con-
stable, or De-
puty Constable,
10l.

Alehouse
Keeper to use
Standard Mea-
sures.

Penalty not ex-
ceeding 40s.

Brewer to use
Casks of full
Size.

Penalty not ex-
ceeding 5l. for
each Cask defi-
cient in Size.

Application of
Penalties.

No. XIII.

3 Geo. IV.

c. 77.

Act not to extend to the City of London.

Other Acts not repealed.

Universities not affected.

Duration of Act limited to Three Years.

other moiety to him or them who shall inform discover or same.

XXIII. Provided always, and be it further enacted, That herein contained shall extend or be construed to extend to alter or times of granting licences for keeping common inns or all the city of *London*.

XXIV. Provided also, and be it further enacted, That noth Act contained is intended to repeal any former Act or Acts of made in this behalf; except only so far as the same or any visoes and enactments thereof have been expressly repealed amended by the present Act.

XXV. Provided always, and be it further enacted, That in this Act contained shall extend to alter or in any manner to aff the rights or privileges of the Universities of *Oxford* or *Cambria* powers of the chancellors or vice-chancellors of the same, as by sessed under the respective charters of the said Universities.

XXVI. And be it further enacted, That this Act shall comm take place from the passing thereof, and from thence shall con be in force for the term of three years, and from their end of the then next session of Parliament.

Schedule (A).

FORM of RECOGNIZANCE.

Middlesex, } A T a meeting of his Majesty's justice
peace acting in and for the division [or liberty
the case may be.] held at in the division [or liberty,
county aforesaid, on the day of one
eight hundred and T. S. at the sign of, &c. victu:
knowledges himself to be indebted to our Sovereign Lord the
the sum of pounds, E. F. of, &c. acknowledges himself
debted to our Sovereign Lord the King in the sum of poun
levied upon their several goods and chattels, lands and tenements
of recognizance to his Majesty's use, his heirs and successors, upo
tion that the said T. S. do and shall keep the true assize in utter
selling bread and other victuals, beer ale and other liquors, in hi
their house, and shall not fraudulently dilute or adulterate the sa
shall not use, in uttering and selling thereof, any pots or other m
that are not of full size, and shall not wilfully or knowingly
drunkenness or tippling, nor get drunk in his her or their house
premises; nor knowingly suffer any gaming with cards, draugh
bagatelle, or any other sedentary game in his her or their house
of the outhouses appurtenances or easements thereto belong
journeymen, labourers, servants, or apprentices; nor knowingly i
permit or suffer any bull bear or badger-baiting, cock-fighting
such sport or amusement in any part of his her or their premis
shall knowingly or designedly, and with a view to harbour and e
such permit or suffer men or women of notoriously bad fame, or d
girls and boys, to assemble and meet together in his her or their h
any of the premises thereto belonging; nor shall keep open his
their house, nor permit or suffer any drinking or tippling in any
his her or their premises during the usual hours of divine service
days; nor shall keep open his her or their house or other premis
late hours of the night, or early in the morning, for any other
than the reception of travellers, but do keep good rule and order
according to the purport of a licence granted for selling ale beer
liquors by retail in the said house and premises for one who
commencing on the tenth day of *October* next, then this recog
to be void, or else to remain in full force.

Schedule (B).

A T a general meeting of his Majesty's justices of the peace, a
and for the division in the county of holden at

ver or s... in the said division, on the day of one thousand eight
 dred and for the purpose of authorizing and empowering
 1. The us to keep common inns alehouses or victualling-houses, we, being
 to alter of his Majesty's justices of the peace acting in and for the said
 s or ale and county assembled at the said meeting, do hereby authorize
 empower at the sign of the in in the
 t noth... and county aforesaid, having produced the certificate
 cts of P... red by law to keep a common inn alehouse or victualling-house, and
 r any of... ter and sell in the said house wherein now dwelleth, called
 sealed a... own by the sign of the and in the premises thereunto
 nging, and not elsewhere, victuals, and all such exciseable liquors as
 [that act... shall be licensed and empowered to sell, under the authority and
 r to affect... mission of any excise licence, which shall be duly granted by the
 [the... m... sioners of Excise, or persons to be appointed or employed by them
 e, as by... at purpose, provided that the true assize in bread, beer, ale, cyder,
 es, all other liquors, be duly kept; and that the said do not
 co... adulterously dilute or adulterate the same, or sell the same knowing them
 all... have been fraudulently diluted or adulterated, and do not use, in utter-
 om... and selling thereof, any pots or other measures that are not of full
 and do not wilfully or knowingly permit drunkenness or tipping, or
 drunk in house, or other premises, nor knowingly suffer any
 ing with cards, draughts, dice, bagatelle, or any other sedentary game,
 house, or any of the outhouses appurtenances or easements
 reto belonging, by journeymen, labourers, servants, or apprentices;
 knowingly introduce permit or suffer any bull bear or badger-baiting
 k-fighting or other such sport or amusement, in any part of
 mises; nor shall knowingly and designedly, and with a view to harbour
 entertain such, permit or suffer men or women of notoriously bad
 ce, or dissolute girls and boys, to assemble and meet together in
 use, or any of the premises thereto belonging; nor shall keep open
 house, nor permit or suffer any drinking or tipping in any part
 premises, during the hours of divine service on *Sundays*; nor
 all keep open house or other premises during late hours of the
 at or early in the morning, for any other purpose than the reception of
 wellers, but that good order and rule be maintained and kept therein;
 authority and power hereby granted to continue in force for one whole
 ar, from the tenth day of *October* next, and no longer.

Signed

No. XIV.] 7 Geo. IV. c. 65.—An Act to continue until the first day of *January* one thousand eight hundred and twenty-seven, and to the End of the next Session of Parliament, an Act of the third Year of His present Majesty, for regulating the Manner of licensing Alehouses in *England*.—[26th May 1826.]

WHEREAS an Act was passed in the third year of his present Majesty's reign, intituled *An Act for amending the Laws for regulating the Man- of licensing Alehouses in that Part of the United Kingdom called England, and for the more effectually preventing Disorders therein*; which Act will expire at the end of the present session of Parliament: And whereas it is expedient to continue the same for a further time: Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That the said Act shall be and the same is hereby further continued in force until the first day of *January* one thousand eight hundred and twenty-seven, and to the end of the next session of Parliament.

No. XIV.

7 Geo. IV.

c. 65.

3 G. 4. c. 77.

Recited Act further continued.

No. XVI.

9 Geo. IV.
c. 46.

[No. XV.] 7 & 8 Geo. IV. c. 48.—An Act to continue until the first day of *June* one thousand eight hundred and twenty-eight, and from thence to the End of the then next Session of Parliament, an Act of the third Year of His present Majesty, for regulating the Manner of licensing Alehouses in *England*.—[23d *June* 1827.]

3 G. 4. c. 77.

7 G. 4. c. 65.

First-recited
Act further
continued.

WHEREAS an Act was passed in the third year of his present Majesty's reign, intituled *An Act for amending the Laws for regulating the Manner of licensing Alehouses in that Part of the United Kingdom called England and for the more effectually preventing Disorders therein*, which was continued by an Act of the last session of Parliament until the first day of *January* one thousand eight hundred and twenty-seven, and to the end of the next session of Parliament: And whereas it is expedient to continue the same for a further time: Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That the said first-recited Act shall be and the same is hereby further continued in force until the first day of *June* one thousand eight hundred and twenty-eight, and from thence to the end of the then next session of Parliament.

[No. XVI.] 9 Geo. IV. c. 46.—An Act to enable certain Hotel-Keepers to be licensed to keep Hotels as common Inns, Alehouses, and Victualling-Houses, and to sell therein Beer and other exciseable Liquors, for the Residue of the present Year.—[15th *July* 1828.]

35 G. 3. c. 113.
§ 1.

WHEREAS by an Act passed in the thirty-fifth year of the reign of His late Majesty King George the Third, intituled *An Act for the more effectual Prevention of selling Ale and other Liquors by Persons not duly licensed*, it is enacted, that from and after the twentieth day of *September* one thousand seven hundred and ninety-five, if any person shall sell ale or beer, or any other exciseable liquors, by retail, or shall permit or suffer any ale or beer, or any other exciseable liquors, to be sold by retail in his her or their house, outhouse, or yard, garden, orchard, or other place, in that part of *Great Britain* called *England*, the dominion of *Wales* and town of *Berwick-upon-Tweed*, without being duly licensed so to do and shall thereof be duly convicted, every such person so offending shall for every such offence forfeit and pay the sum of twenty pounds, and also the costs and expences attending the conviction, to be levied and recovered as therein is directed; and on and after a second conviction for the like offence, shall also be rendered incapable of being thereafter licensed to keep an alehouse, or to sell ale or beer, or other exciseable liquors, by retail; and several provisions are also contained in the said Act for the recovery and appropriation of the said penalty: And whereas certain persons, being the keepers of hotels for the temporary residence of guests and not being licensed to keep a common inn alehouse or victualling house, have, by supplying such guests with beer, or other exciseable liquors, for their daily consumption, inadvertently incurred the aforesaid penalty and disability; for remedy thereof be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That every such person, so being the keeper of any hotel for the temporary residence of guests, who at any time before the passing of this Act, by selling to and supplying any guest in such hotel with any beer or other exciseable liquor, without being duly licensed, have sold or supplied such liquor to their guests before the passing of this Act, discharged from the Penalty.

Keepers of Hotels, who without Licence have sold exciseable Liquors to their Guests before the passing of this Act, discharged from the Penalty.

used to keep a common inn alehouse or victualling-house, shall have by incurred the penalty and disability aforesaid, shall, on taking out licences as herein-after mentioned, be altogether freed acquitted discharged of and from every such penalty and disability, and all proceedings for the recovery thereof shall be null and void; the said Act or any other Act or Acts to the contrary thereof notwithstanding.

II. And whereas the days and times appointed by law for justices to grant licences to keep common inns alehouses or victualling-houses, for the present year, are now past, and it is expedient to make special provision for granting such licences to the keepers of such hotels as aforesaid the residue of the present year; be it therefore enacted, That it shall be lawful for any two or more justices of the peace or magistrates, if they shall so think fit, of any county, city, borough, town, or place in Great Britain, to grant their authority or licence to any person keeping and using and who shall have kept and used any such hotel as aforesaid, at any time from the first day of *January* one thousand eight hundred and twenty-eight, or at any time between that day and the passing of this Act, to any such hotel as a common inn alehouse or victualling-house for the residue of the present year for granting such licences, and until the time when the general licences for that purpose are according to law in force and course renewable; provided the hotel in respect of which such authority or licence as herein mentioned shall be applied for shall have been kept and used as such hotel, either by the person or persons who at the time of applying for such authority or licence shall so keep and use the same, or by his her or their predecessor or predecessors therein, on and continually from the first day of *January* one thousand eight hundred and twenty-eight until the passing of this Act; and it shall be lawful for the commissioners and assistant commissioners collectors and supervisors of excise to grant to every such person, so authorized and licensed by any two justices as aforesaid, a licence or licences to sell beer by retail, or wine or perry, or other exciseable liquors, to be drunk or consumed in the hotel for which such licence or authority shall have been granted, in the same manner as if such hotel had been licensed by the justices for that purpose under and according to the Acts of Parliament in force at and immediately before the passing of this Act; any thing in the said Acts, to the contrary thereof notwithstanding: Provided always, That every person to whom such authority or licence shall be so granted by two justices as aforesaid, shall in all other respects whatsoever be subject and liable to the rules and regulations, penalties and forfeitures, and shall do and perform all things whatsoever, which the persons licensed or applying to be licensed by the justices to keep a common inn alehouse or victualling-house shall by any such Act or Acts as aforesaid be required to do, or to which such persons are made subject.

III. And be it further enacted, That this Act, or any of the provisions hereof, may be amended altered or repealed in this present session of Parliament.

No. XVII.

9 Geo. IV.

c. 58.

Two Justices may grant a Licence to keep such Hotel as a common Inn Alehouse or Victualling-House for the Residue of the present Year.

Act may be amended this Session.

No. XVII.] 9 Geo. IV. c. 58.—An Act to regulate the granting of Certificates, by Justices of the Peace and Magistrates, authorizing Persons to keep common Inns Alehouses and Victualling-Houses in *Scotland*, in which Ale, Beer, Spirits, Wine, and other Exciseable Liquors may be sold by Retail under Excise Licences; and for the better Regulation of such Houses; and for the Prevention of such Houses being kept without such Certificate.—[15th July 1828.]

No. XVIII.
9 Geo. IV.
c. 61.

[No. XVIII.] 9 Geo. IV. c. 61.—An Act to regulate the granting of Licences to Keepers of Inns Alehouses and Victualling-Houses in *England*.—[15th July 1828.]

General Li-
censing Meet-
ings to be held
annually.

WHEREAS it is expedient to reduce into one Act the laws relative to the licensing, by justices of the peace, of persons keeping or being about to keep inns alehouses and victualling-houses, to sell exciseable liquors by retail, to be drunk or consumed on the premises, in that part of the United Kingdom called *England*; be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That in every division of every county and riding, and of every division of the county of *Lincoln*, and in every hundred of every county, not being within any such division, and in every liberty, division of every liberty, county of a city, county of a town, city, and town corporate, in that part of the United Kingdom called *England*, there shall be annually holden a special session of the justices of the peace (to be called the General Annual Licensing Meeting), for the purpose of granting licences to persons keeping or being about to keep inns alehouses and victualling-houses, to sell exciseable liquors by retail, to be drunk or consumed on the premises therein specified; and that such meetings shall be holden in the counties of *Middlesex* and *Surrey* within the first ten days of the month of *March*, and in every other county on some day between the twentieth day of *August* and the fourteenth day of *September* inclusive; and that it shall be lawful for the justices acting in and for such county or place assembled at such meeting, or at any adjournment thereof, and not as herein-after disqualified from acting, to grant licences, for the purposes aforesaid, to such persons as they the said justices shall, in the execution of the powers herein contained, and in the exercise of their discretion, deem fit and proper.

Time of hold-
ing such Meet-
ings.

Time and Place
how to be ap-
pointed.

Notice of
Meetings to be
given.

II. And be it further enacted, That in every such division or place as aforesaid there shall be holden, twenty-one days at the least before each such general annual licensing meeting, a petty session of the justices acting for such county or place, the majority of whom then present shall, by a precept under their hands, appoint the day hour and place upon and in which such general annual licensing meeting for such division or place shall be holden; and shall direct such precept to the high constable of the division or place for which such meeting is to be holden, requiring him, within five days next ensuing that on which he shall have received such precept, to order the several petty constables or other peace officers within his constablewick to affix or cause to be affixed on the door of the church or chapel, and where there shall be no church or chapel, on some other public and conspicuous place within their respective districts, a notice of the day hour and place at which such meeting is appointed to be holden, and to give to or to leave at the dwelling-house of each and every justice acting for such division or place and of each and every person keeping an inn, or who shall have given notice of his intention to keep an inn, and to apply for a licence to sell exciseable liquors by retail, to be drunk or consumed on the premises, within their respective districts, a copy of such notice.

Adjournment of
Meetings.

III. And be it further enacted, That it shall be lawful for the justices acting at the general annual licensing meeting, and they are hereby required to continue such meeting by adjournment, to such day or days, and to such place or places within the division or place for which such meeting shall be holden, as such justices may deem most convenient and sufficient for enabling persons keeping inns within such division or place to apply for such licence: Provided nevertheless, that the adjourned meeting to be holden next after such general annual licensing meeting shall not be so holden in or upon any of the five days next ensuing that on which such general annual licensing meeting shall have been holden as aforesaid; and that every adjournment of the said general annual

ing meeting shall be holden within the month of *March* in the *ities of Middlesex and Surrey*, and of *August or September* in every county.

V. And be it further enacted, That the justices assembled at the *oral or quarter session* which shall be holden at *Michaelmas* next after passing of this Act, and at the general annual licensing meeting in *ry subsequent year*, shall appoint not less than four nor more than *special sessions*, to be holden in the division or place for which each *meeting* shall be holden, in the year next ensuing such general annual licensing meeting, at periods as near as may be equally distant; at *each special session* it shall be lawful for the justices then and there *embodyed*, in the cases and in the manner and for the time herein-after *acted*, to license such persons intending to keep inns theretofore kept *other persons* being about to remove from such inns, as they the said *ices* shall, in the execution of the powers herein contained, and in the *trise* of their discretion, deem fit and proper persons, under the *promons* herein-after enacted, to be licensed to sell exciseable liquors by *ail*, to be drunk or consumed on the premises.

And be it further enacted, That whenever the justices shall have *ered* any such adjournment of the general annual licensing meeting, *shall* have appointed such special sessions as aforesaid, the day hour *place* for holding every such adjourned meeting, and every such special *ession*, shall be appointed by precept of the majority of the said justices, *ected* to the high constable, requiring notices, similar in form to those *ben* at the general annual licensing meeting, to be affixed on the door of *be* church or chapel, or on some other public and conspicuous place, and *be* served upon the same parties.

VI. And be it further enacted, That no justice who shall be a common *rewer*, distiller, maker of malt for sale, or retailer of malt or of any *exciseable liquor*, or who shall be concerned in partnership with any common *rewer*, distiller, maker of malt for sale, or retailer of malt or of any *exciseable liquor*, shall act in or be present at any general annual licensing *meeting*, or at any adjournment thereof, or at any special session for *granting or transferring* licences under this Act, or shall take part in the *discussion or adjudication* of the justices upon any application for a *licence*, or upon any appeal therefrom; and no justice shall act, upon any *of the aforesaid occasions*, in the case of any house licensed or about to *be* licensed under this Act, of which such justice shall be the owner, or *for* the owner of which he shall be manager or agent, or of any house *being* in whole or in part the property of any common brewer, distiller, *maker of malt for sale*, or retailer of malt or of any exciseable liquor, to *whom* such justice shall be, either by blood or by marriage, the father son *or brother*, or of whom such justice shall be the partner in any other trade *or calling*; and that every justice who, being hereby disqualified, shall *knowingly or wilfully* to offend shall for every such offence forfeit and pay *the sum of one hundred pounds*: Provided always, that nothing herein *contained* shall extend to disqualify any justice (not otherwise disqualified, *and having no beneficial interest* in the house licensed or about to be *licensed* under this Act,) from acting on any of the occasions aforesaid, by *reason of the legal estate* in such house being vested in him as trustee for *any person or persons*, or for any charitable or public use or purpose *whatsoever*.

VII. And be it further enacted, That whenever at any of the meetings *to be holden* as aforesaid for any liberty, county of a city, county of a *town, city, or town corporate*, there shall not be present at least two *justices* acting in and for any such liberty, county of a city, county of a *town, city, or town corporate*, who are not disqualified, it shall be lawful *for the justices* acting in and for the county or counties adjoining to such *liberty, county of a city, county of a town, city, or town corporate*, and not *disqualified* from acting, to act within such liberty or place, and with the *justice or justices* thereof, not as herein-before disqualified, who shall be *present* at any such meeting as aforesaid, for the purpose of granting or

No. XVIII.
9 Geo. IV.
c. 61.

Special Sessions
for transferring
Licences to be
appointed.

Notice to be
given of the
Adjournment of
the General
Annual Licens-
ing Meeting
and Special
Sessions.

What Justices
shall be dis-
qualified from
acting.

When in Liber-
ties, &c., Two
Justices not
disqualified do
not attend, the
County Justices
may act.

No. XVIII.
9 Geo. IV.
c. 61.

Powers hereby
given to the
Justices of the
County not to
extend to the
Cinque Ports.

Questions re-
specting Li-
cences to be
determined, and
Licences to be
signed, by the
Majority of
Justices at the
Meeting.

Notice of Ap-
plication for a
Licence to keep
a House as an
Inn, not previ-
ously kept as
such.

Notice of Ap-
plication to
transfer a
Licence.

transferring licences under, or of hearing complaints as to offences against, this Act; any law custom or usage to the contrary notwithstanding.

VIII. Provided always, and be it further enacted, That nothing herein contained shall extend to give the justices of the county, or any division thereof, any power or authority for the putting of the provisions of this Act in execution within any of the Cinque Ports or either of the two ancient towns, or any of the corporate or other members or liberties of the Cinque Ports or two ancient towns; but that it shall be lawful for the justices of and for each of the principal Cinque Ports and two ancient towns, and not as herein-before disqualified from acting, and none other, to act within and for the same, and the liberties thereof, not corporate, respectively, as they have been accustomed, and for them or any of them (not so as last aforesaid disqualified,) to act within each of the corporate members immediately belonging or subordinate to such principal Cinque Port or ancient town, with the justice or justices of each such corporate member, (not so as last aforesaid disqualified,) for the purpose of granting or transferring licences under, or of hearing complaints as to offences against, this Act, in all such cases in which the justices of the county are herein-before empowered or authorized to act with the justice or justices of any liberty, county of a city, county of a town, city, or town corporate.

IX. And be it further enacted, That when (at any of the meetings aforesaid) any question touching the granting withholding or transferring any licence, or the fitness of the person applying for such licence, or of the house intended to be kept by such person, shall arise, such question shall be determined by the majority of justices, not disqualified, who shall be present when such question shall arise; and every licence granted under the authority of this Act shall be signed by the majority of the justices, not disqualified, who shall be present when such licence shall be granted.

X. And be it further enacted, That every person intending to apply for a licence to sell exciseable liquor by retail, to be drunk or consumed in any house not theretofore kept as an inn, shall affix or cause to be affixed a notice on the door of such house, and on the door of the church or chapel of the parish or place in which such house shall be situate, and where there shall be no church or chapel, on some other public and conspicuous place within such parish or place, on three several *Sundays* between the first day of *January* and the last day of *February* in the counties of *Middlesex* and *Surrey*, and elsewhere between the first day of *June* and the last day of *July*, at some time between the hours of ten in the forenoon and of four in the afternoon, and shall serve a copy of such notice upon one of the overseers of the poor, and upon one of the constables or other peace officers of the said parish or place, within the month of *February* in the counties of *Middlesex* and *Surrey*, and elsewhere within the month of *July*, prior to the general annual licensing meeting; and every such notice, and the copies thereof, shall be written in a fair and legible hand, or printed, and shall be according to the form in the schedule hereunto annexed, marked (A), and shall be signed by the party intending to make such application, or by his agent thereunto authorized, and shall set forth the situation of the house in a true and particular manner, and the christian and surname of the party applying, together with the place of his residence, and his trade or calling, during the six months previous to the time of serving such notice, and his intention to apply for a licence to sell exciseable liquor by retail, to be drunk or consumed in such house or premises.

XI. And be it further enacted, That every person holding a licence under the authority of this Act, or his heirs, executors, administrators, or assigns, being desirous to transfer such licence to some other person, and intending to apply at the special session then next ensuing for permission so to do, shall, five days at the least prior to such special session, serve a notice of such his intention upon one of the overseers of the poor, and upon one of the constables or other peace officers of the parish

place in which the house kept by the person so holding such licence is at; and every such notice shall be written in a fair and legible at; or printed, and shall be according to the form in the schedule hereunto annexed, marked (B), and shall be signed by the party intending to make such application, or by his agent thereunto authorized, and it set forth the christian and surname of the person to whom it is intended that such licence shall be transferred, together with the place of residence, and his trade or calling, during the six months previous to the time of serving such notice.

XII. And be it further enacted, That if any person intending to apply at the general annual licensing meeting, or at any adjournment thereof, at any special session, for any licence to be granted under the authority of this Act, or for the transfer of any such licence, shall be hindered by sickness or infirmity, or by any other reasonable cause, from attending at any such meeting, it shall be lawful for the justices there assembled to grant or transfer such licence to such person so hindered from attending, and to deliver the same to any person then present, who shall be duly authorized by the person so hindered from attending to receive the same, proof being adduced to the satisfaction of such justices, that he is hereby empowered to examine upon oath into the matter of such objection, that such person is hindered from attending by good and sufficient cause.

XIII. And be it further enacted, That every licence which shall be granted under the authority of this Act shall be according to the form in the schedule hereunto annexed marked (C), and shall be in force in the counties of *Middlesex* and *Surrey* from the fifth day of *April*, and elsewhere from the tenth day of *October*, after the granting thereof, for one whole year thence respectively next ensuing, and no longer: and every licence for the purposes aforesaid, which shall be granted at any other time or place, or in any other form than that hereby directed, except as herein-after excepted, shall not entitle any person to obtain an excise licence for selling exciseable liquors by retail, to be drunk or consumed on the premises of the person licensed, and shall be utterly void to all intents and purposes.

XIV. And be it further enacted, That if any person duly licensed under this Act shall (before the expiration of such licence) die, or shall be, by sickness or other infirmity, rendered incapable of keeping an inn, or shall become bankrupt, or shall take the benefit of any Act for the relief of insolvent debtors; or if any person so licensed, or the heirs, executors, administrators, or assigns of any person so licensed, shall remove from or yield up the possession of the house specified in such licence; or if the occupier of any such house, being about to quit the same, shall have wilfully omitted, or shall have neglected to apply, at the general annual licensing meeting, or at any adjournment thereof, for a licence to continue to sell exciseable liquors by retail, to be drunk or consumed in such house; or if any house, being kept as an inn by any person duly licensed as aforesaid, shall be or be about to be pulled down or occupied under the provisions of any Act for the improvement of the highways, or for any other public purpose; or shall be, by fire tempest or other unforeseen and unavoidable calamity, rendered unfit for the reception of travellers, and for the other legal purposes of an inn; it shall be lawful for the justices assembled as aforesaid at a special session, holden under the authority of this Act, for the division or place in which the house so kept or having been kept shall be situate, in any one of the above-mentioned cases, and in such cases only, to grant to the heirs executors or administrators of the person so dying, or to the assigns of such person becoming incapable of keeping an inn, or to the assignee or assignees of such bankrupt or insolvent, or to any new tenant or occupier of any house having so become unoccupied, or to any person to whom such heirs, executors, administrators, or assigns shall by sale or otherwise have *bond fide* conveyed or otherwise made over his or their interest in the occupation and keeping of such house, a licence to sell exciseable liquors by retail, to be drunk or consumed in such house, or the premises thereunto belonging; or to grant to the per-

No. XVIII.
9 Geo. IV.
c. 61.

Any Person hindered from attending any Licensing Meeting by Sickness may authorize another Person to attend for him.

Form of Licence.

Provision for Death, Change of Occupancy, or other Contingency.

No. XVIII.

9 Geo. IV.

c. 61.

Duration of Licence granted in event of such Contingency. Notices required.

son whose house shall as aforesaid have been or shall be about to be pulled down or occupied for the improvement of the highways, or for any other public purpose, or have become unfit for the reception of travellers, or for the other legal purposes of an inn, and who shall open and keep as an inn some other fit and convenient house, a licence to sell exciseable liquors by retail, to be drunk or consumed therein: Provided always, that every such licence shall continue in force only from the day on which it shall be granted until the fifth day of *April* or the tenth day of *October* then next ensuing, as the case may be: Provided also, that every person intending to apply, in any of the above-mentioned cases, at any such special session for a licence to sell exciseable liquors by retail, to be drunk or consumed in a house or premises thereunto belonging, in which exciseable liquors shall not have been sold by retail, to be drunk or consumed on the premises, by virtue of a licence granted at the general annual licensing meeting next before such special session, shall, on some one *Sunday* within the six weeks next before such special session, at some time between the hours of ten in the forenoon and of four in the afternoon, affix or cause to be affixed on the door of such house, and on the door of the church or chapel of the parish or place in which such house shall be situate, and where there shall be no church or chapel, on some other public and conspicuous place within such parish or place, such and the like notice as is herein-before directed to be affixed by every person intending to apply at the general annual licensing meeting for a licence to sell exciseable liquors by retail, to be drunk or consumed in a house not theretofore kept as an inn, and shall in like manner serve copies of the said notice on one of the overseers of the poor, and on one of the constables or other peace officers of such parish or place.

Fees to be paid for Licences.

XV. And be it further enacted, That it shall be lawful for the clerk of the justices, as well at the general annual licensing meeting as also at any special session to be holden under this Act, to demand and receive from every person to whom a licence shall be granted under this Act, for the trouble of such clerk, and for all expences connected therewith, the sums following, and no more; *videlicet*, for the petty constable or other peace officer, for serving notices, and for all other services hereby required of such petty constable or other peace officer, the sum of one shilling; for the clerk of the justices, for the licence, the sum of five shillings; and for preparing the precepts to be directed to the high constable, and notices to be delivered by the petty constable, as required by this Act, the sum of one shilling and sixpence; and every such clerk, who shall demand or receive from any person for such respective fees in his behalf any greater sum or any thing of greater value than the sums herein-before specified, being in the whole the sum of seven shillings and sixpence, shall for every such offence, on conviction before one justice, forfeit and pay the sum of five pounds.

Penalty for taking larger Fees.

Persons disqualified to hold Licences.

XVI. And be it further enacted, That no sheriff's officer, or officer executing the legal process of any court of justice in any county or place, shall be capable of receiving or using any licence under this Act; and that every licence granted or transferred to any person exercising any such office shall be void to all intents and purposes.

No Excise Licence to be granted, except to a Person licensed under this Act.

XVII. And be it further enacted, That no licence for the sale of any exciseable liquors by retail, to be drunk or consumed on the premises of the person licensed, shall be granted by the commissioners of Excise, or by any officer of Excise, to any person whatsoever, unless such person shall have previously obtained from the justices a licence under this Act, and which said licence of such justices shall be retained by such person after being produced to the commissioners or officers of Excise; and every licence granted by the commissioners of Excise, or by any officer of Excise, contrary to this provision, shall be null and void to all intents and purposes.

Penalty for selling exciseable Liquors by retail without Licence.

XVIII. And be it further enacted, That every person who shall sell, barter, exchange, or for valuable consideration otherwise dispose of, any exciseable liquor by retail, to be drunk or consumed in his house or premises, or shall permit or suffer any exciseable liquor to be sold, bartered,

changed, or otherwise disposed of for valuable consideration, by retail, to be drunk or consumed in his house or premises, without being duly licensed so do; and that every person, being duly licensed, who shall barter, exchange, or for valuable consideration otherwise dispose of, shall permit or suffer to be sold, bartered, exchanged, or otherwise disposed of for valuable consideration, any exciseable liquor by retail, to be drunk or consumed in his house or premises, not being the house or premises specified in such licence; shall respectively for every such offence, on conviction before one justice, forfeit and pay any sum not exceeding twenty nor less than five pounds, together with the costs of the conviction: Provided always, that no penalty for such sale, barter, exchange or other disposal of any such liquor by retail without licence, shall be incurred by the heirs, executors, administrators, or assigns of any person licensed under this Act, who shall die, become bankrupt, or take the benefit of any Act for the relief of insolvent debtors, before the expiration of his licence, so as such sale, barter, exchange, or other disposal of such liquor, be made in the house or premises specified in such licence, and take place prior to the special session then next ensuing, unless such special session shall be holden within fourteen days next after the death of such person, or insolvency of the said person, and in any such case to the special session which shall be holden next after such special session aforesaid.

XIX. And be it further enacted, That every person hereby licensed to sell exciseable liquors by retail, to be drunk or consumed in his house or premises, shall, if required, sell or otherwise dispose of all such liquors by retail therein (except in quantities less than a half pint,) by the gallon, quart, pint, or half pint measure, sized according to the standard, and shall also, if required by any guest or customer purchasing such liquor, retail the same in a vessel sized according to such standard; and in default thereof he shall for every such offence forfeit the illegal measure, and pay a sum not exceeding forty shillings, together with the costs of the conviction, to be recovered within thirty days next after that on which such offence was committed, before any one justice; and such penalty shall be over and above all penalties to which the offender may be liable under any other Act.

XX. And be it further enacted, That it shall be lawful for any two justices acting for any county or place where any riot or tumult shall happen or be expected to take place, to order or direct that every person licensed under this Act, and keeping any house situate within their respective jurisdictions in or near the place where such riot or tumult shall happen or be expected to take place, shall close his house at any time which the said justices shall order or direct; and every such person who shall keep open his house at or after any hour at which such justices shall have so ordered or directed such house to be closed, shall be taken and deemed to have not maintained good order and rule herein.

XXI. And be it further enacted, That every person licensed under this Act, who shall be convicted before two justices, acting in and for the division or place in which shall be situate the house kept or theretofore kept by such person, of any offence against the tenor of the licence to him granted, shall, unless proof be adduced to the satisfaction of such justices, that such person had been theretofore convicted before two justices within the space of the three years next preceding of some offence against the tenor of the licence subsisting at the time when such last-mentioned offence was committed, be adjudged by such justices to be guilty of a first offence against the provisions of this Act relative to the maintenance of good order and rule, and to forfeit and pay any sum not exceeding five pounds, together with the costs of the conviction; but if proof shall be adduced to the satisfaction of such justices, that such person had been previously convicted before two justices, within the space of the three years next preceding, of one offence only against the tenor of the licence subsisting at the time when such last-mentioned offence was committed,

No. XVIII.

9 Geo. IV.

c. 61.

Proviso in case
of Death.

Licensed Persons to use
Standard Measures in Sale
of Liquors.

Houses to be
closed by Order
of Justices in
Cases of Riot,
&c.

Penalties for
Offences against
Tenor of Li-
cences.

1st Offence.

No. XVIII.

9 Geo. IV.
c. 61.

2d Offence.

3d Offence.

Hearing of the
Case may be
adjourned to the
Quarter Ses-
sion.Penalty on
Verdict of
"Guilty."

such person shall be adjudged by such justices to be guilty of a second offence against the provisions of this Act as aforesaid, and to forfeit and pay the sum not exceeding ten pounds, together with the costs of the conviction; but if proof shall be adduced to the satisfaction of such justices that such person had been previously convicted before two justices, within the space of the three years next preceding, of two separate offences against the tenor of the licences subsisting at the times when such last mentioned offences were committed, it shall be lawful for the said justices and they are hereby required, to adjourn the further consideration of the charge so made against such person as aforesaid to the special session to be then next holden under this Act for the division or place in which shall be situate the house kept by such person, or to the general annual licensing meeting for the said division or place, if such meeting shall take place before any such special session shall be holden; and such justices shall issue their summons to the person so charged, to appear at such special session or at such general annual licensing meeting, then and there to answer the matter of such charge; and shall bind the person who shall make such charge, and any other person who shall have any knowledge of the circumstances thereof, in a sufficient recognizance, to appear at such special session or at such general annual licensing meeting, then and there to prosecute and to give evidence upon such charge; and if proof shall be adduced to the satisfaction of the justices assembled at such special session, or at such general annual licensing meeting, that such person so charged is guilty of the offence with which he is so charged, such person shall be adjudged to be guilty of a third offence against the provisions of this Act as aforesaid, and to forfeit and pay any sum not exceeding fifty pounds, together with the costs of the conviction: Provided always, that if at any time before the hearing of any such last-mentioned charge, the justices assembled as aforesaid shall in their discretion think fit to direct that the hearing of such charge shall be adjourned to the general or quarter session of the peace then next ensuing, there to be inquired of by a jury, or if the person so charged shall, in writing under his hand, request the said justices to direct that the hearing of such charge shall be so adjourned as aforesaid, the said justices are hereby required to direct that the hearing of such charge shall be so adjourned, provided that the person who shall have made such request shall, before such justices so assembled, forthwith enter into a recognizance, with two sufficient sureties, personally to appear at the said general or quarter session, and to try such charge, and to abide the judgment of the court thereupon, and to pay such costs as shall be by the court awarded; and the said justices are hereby required to bind in a recognizance to appear at such general or quarter sessions as aforesaid, then and there to give evidence against the person so charged, the person who shall make such charge, and any other person who shall have any knowledge of the circumstances thereof; and it shall be lawful for the said court of general or quarter session to direct a jury then and there duly impanelled to be sworn to inquire of the offence so charged to have been committed, and upon their verdict of "Guilty," to adjudge such person to be guilty of a third offence against the provisions of this Act as aforesaid, and such verdict and adjudication shall be final to all intents and purposes; and to punish such offender by fine, not exceeding the sum of one hundred pounds, or to adjudge the licence granted to and held by or on behalf of such offender to be forfeited and void, or to punish such offender by such fine as aforesaid, and to adjudge such licence to be forfeited and void, and if such licence shall be adjudged to be forfeited and void, it shall thenceforth be void accordingly; and every excise licence for selling any exciseable liquors by retail, then held by or on behalf of such offender, shall also be void; and if the licence of such offender shall be so adjudged to be void, such offender shall, from and after such last-mentioned adjudication, be deemed and taken to be incapable of selling exciseable liquors by retail in any inn kept by him for the space of three years, to be computed from the time of such adjudication; and any licence granted

such person during such term shall be void to all intents and purposes: provided also, that the court may, upon sufficient cause shown, adjourn the hearing of such charge to the then next general or quarter session of the peace, when the same shall be finally determined.

XXII. And be it further enacted, That in every case in which the justices assembled at any special session, or at any general annual licensing meeting, shall direct that the charge against any person licensed under the Act shall be adjourned to the general or quarter session, it shall be lawful for such justices, if no other fit and proper person shall appear to prosecute such charge, and to carry on such proceedings as may be necessary to obtain at such session an adjudication thereon, to order that the constable or other peace officer of the parish or place in which shall be kept the house kept by the person so charged, shall carry on all proceedings necessary to obtain such adjudication as aforesaid, and to bind such constable or other peace officer in a sufficient recognizance so to do; and it shall be lawful for the justices before whom such charge shall have been heard, to order the treasurer of the county or place in and for which such justices shall then act, to pay to such constable or other peace officer, and to the witness or witnesses on his behalf, such sum or sums of money as to the court shall appear to be sufficient to reimburse such constable or other peace officer, and such witness or witnesses respectively, the expences that he or they shall have been severally put to in and about such prosecution; which order the clerk of the peace is hereby directed and required forthwith to make out and to deliver to such constable or other peace officer, or to such witness or witnesses; and the said treasurer is hereby authorized and required, upon sight of such order, forthwith to pay to such constable or other peace officer, or other person authorized to receive the same, such money as aforesaid; and the said treasurer shall be allowed the same in his accounts.

XXIII. And be it further enacted, That if any person shall be summoned as a witness to give evidence before any justice touching any of the matters aforesaid, either on the part of the complainant or of the person accused, and shall neglect or refuse to appear at the time and place for that purpose appointed, and who shall not make such reasonable excuse for such neglect or refusal as shall be admitted and allowed by such justice, or who appearing shall refuse to be examined on oath or affirmation and give evidence, every such person shall on conviction before such justice forfeit and pay for every such offence any sum not exceeding ten pounds.

XXIV. And be it further enacted, That every penalty and forfeiture imposed by this Act upon any justice may be sued for and recovered by action of debt in any of his Majesty's Courts of Record at *Westminster*; and one moiety of every such penalty or forfeiture shall be paid to the use of his Majesty, his heirs and successors, and the other moiety to him who shall sue for the same.

XXV. And be it further enacted, That in every case in which, under the authority of this Act, any justice shall adjudge that any offender shall pay or cause to be paid any penalty, and such offender shall refuse or neglect forthwith, or within such period as such justice shall appoint, to pay such penalty and any costs which shall have been duly assessed and ascertained by such justice, it shall be lawful for such justice, if he shall think fit, to issue his warrant, and to levy the amount of such penalty and costs by distress and sale of the goods and chattels of such offender, together with the costs of such distress and sale; and in every such case such offender, if in custody at the time that such warrant shall be so issued, shall be forthwith discharged; but if it shall appear to such justice that the goods and chattels of such offender are not sufficient whereon to levy such distress, together with the costs of such distress and sale, it shall be lawful for such justice to commit the offender to the common gaol or to the house of correction of the county or place for which such justice shall be then acting, for any term not exceeding one calendar month, if the penalty shall not be above five pounds; for any term not exceeding three calendar months, if the penalty shall be above five pounds, and shall

No. XVIII.

9 Geo. IV.

c. 61.

Quarter Sessions may adjourn the Hearing.

Proceedings at the Session in certain Cases to be carried on by the Petty Constable.

Expences of Prosecution to be charged on County Rates.

Penalty on Witnesses not attending.

Penalties on Justices how to be recovered and applied.

Other Penalties how to be recovered.

No. XVIII.

9 Geo. IV.

c. 61.

not be more than ten pounds; and for any term not exceeding six calendar months, if the penalty shall be above ten pounds: Provided nevertheless, that whenever such offender shall have been committed to the common gaol or house of correction, in consequence of his not having duly paid such penalty and costs, such offender shall, if he pay or cause to be paid to the gaoler or keeper of the house of correction, or to whomsoever such justice shall have appointed, the penalty imposed, and costs, together with all the costs of the apprehension of him, and of the conveyance of him to the said gaol or house of correction, at any time previous to the expiration of the time for which such offender shall so have been committed, be forthwith discharged.

How Penalties
are to be ap-
plied.

XXVI. And be it further enacted, That it shall be lawful for any justice, before whom any penalty shall be recovered under the provisions of this Act, to award, if he shall think fit, any portion of the same, not in any case exceeding one moiety thereof, to the use of the prosecutor, and the remainder to the treasurer of the county or place for which such justice shall then act; and the said treasurer shall place the same to the credit of such county or place, and shall duly account for the same.

Appeal may be
made to the
Quarter Ses-
sions.

XXVII. And be it further enacted, that any person who shall think himself aggrieved by any act of any justice, done in or concerning the execution of this Act, may appeal against such act to the next general or quarter sessions of the peace holden for the county or place wherein the cause of such complaint shall have arisen, unless such session shall be holden within twelve days next after such act shall have been done, and in that case to the next subsequent session holden as aforesaid, and not afterwards, provided that such person shall give to such justice notice in writing of his intention to appeal, and of the cause and matter thereof, within five days next after such Act shall have been done, and seven days at the least before such session, and shall within such five days enter into a recognizance, with two sufficient sureties, before a justice acting in and for such county or place as aforesaid, conditioned to appear at the said session, and to try such appeal, and to abide the judgment of the court thereupon, and to pay such costs as shall be by the court awarded; and upon such notice being given, and such recognizance being entered into, the justice before whom the same shall be entered into shall liberate such person if in custody for any offence in reference to which the act intended to be appealed against shall have been done; and the court at such session shall hear and determine the matter of such appeal, and shall make such order therein, with or without costs, as to the said court shall seem meet; and in case the act appealed against shall be the refusal to grant or to transfer any licence, and the judgment under which such act was done be reversed, it shall be lawful for the said court to grant or to transfer such licence, in the same manner as if such licence had been granted at the general annual licensing meeting, or had been transferred at a special session; and the judgment of the said court shall be final and conclusive to all intents and purposes; and in case of the dismissal of such appeal, or of the affirmance of the judgment on which such act was done, and which was appealed against, the said court shall adjudge and order the said judgment to be carried into execution, and costs awarded to be paid, and shall if necessary issue process for enforcing such order; provided that no justice shall act in the hearing or determination of any appeal to the general or quarter sessions as aforesaid from any act done by him in or concerning the execution of this Act: Provided also, that when any cause of complaint shall have arisen within any liberty, county of a city, county of a town, city, or town corporate, it shall be lawful for the person who shall think himself so as aforesaid aggrieved to appeal against any such Act as aforesaid, if he shall think fit, to the quarter sessions of the county within or adjoining to which such liberty or place shall be situate, subject to all the provisions herein-before contained.

Judgment of
the Quarter
Session to be
final.

Justices to bind
Parties to ap-
pear to give Evidence at Quarter Session.

XXVIII. And be it further enacted, That when any person shall have given notice of his intention to appeal as aforesaid, and shall have entered

recognition as herein-before directed, it shall be lawful for the justice before whom such recognition shall have been entered into, to summon any person whose evidence shall appear to him to be material; to require such person to be bound in recognizance to appear at the general or quarter session, and to give evidence in such appeal; in case any such person as aforesaid shall neglect or refuse to obey a summons, or shall refuse to enter into such recognizance, it shall be lawful for such justice as aforesaid to issue his warrant to apprehend such person so neglecting or refusing to obey such summons, and to bring him before such justice, and if such person shall continue to refuse to enter into such recognizance, to commit him to the common gaol or house of correction of the county or place for which such justice shall then acting, there to remain until he shall enter into such recognizance, or shall be otherwise discharged by due course of law.

XIX. And be it further enacted, That in every case where notice of appeal against the judgment of any justice in or concerning the execution of this Act shall have been given, and such appeal shall have been dismissed, or the judgment so appealed against shall have been affirmed, or the appeal shall have been abandoned, it shall be lawful for the court to which such appeal shall have been made or intended to be made, and the court is hereby required, to adjudge and order that the party so being appealed, or given notice of his intention to appeal, shall pay to such justice to whom such notice shall have been given, or to whomsoever he shall appoint, such sum, by way of costs, as shall in the opinion of such court be sufficient to indemnify such justice from all cost and charge whatsoever to which such justice may have been put in consequence of his having had served upon him notice of the intention of such party to appeal; and if such party shall refuse or neglect forthwith to pay such sum, it shall be lawful for the said court to adjudge and order that the party so refusing or neglecting shall be committed to the common gaol or house of correction, there to remain until such sum be paid; and that in every case in which the judgment so appealed against shall be reversed, it shall be lawful for such court, if it shall think fit, to adjudge and order that the treasurer of the county or place in and for which such justice whose judgment shall have been so reversed shall have acted on the occasion when he shall have given such judgment, shall pay to such justice, or to whomsoever he shall appoint, such sum as shall, in the opinion of such court, be sufficient to indemnify such justice from all costs and charges whatsoever to which such justice may have been so put; and the said treasurer is hereby authorized to pay the same, which shall be allowed to him in his accounts.

XXX. And be it further enacted, That every action against any justice constable or other person, for or on account of any matter or thing whatsoever done or commanded by him in the execution of his duty or office under this Act, shall be commenced within three calendar months after the cause of action or complaint shall have arisen, and not afterwards; and if any person shall be sued for any matter or thing which he shall have done in the execution of this Act, he may plead the general issue, and give the special matter in evidence.

XXXI. And be it further enacted, That every conviction under this Act shall be on the oath or oaths of one or more credible witness or witnesses; and that any justice, not as herein-before disqualified, and acting in and for the county or place in which the offence complained of shall have been committed, is hereby authorized to administer the same.

XXXII. And in order to prevent frivolous and vexatious appeals, be it further enacted, That a conviction in the form or to the effect following, *mutatis mutandis*, as the case may be, shall be good and effectual to all intents and purposes whatsoever, without stating the case, or the facts or evidence, in any more particular manner; (that is to say,)

to wit, } BE it remembered, That on this _____ day of _____ in the year _____ A. B. of _____ was duly convicted before _____ of his Majesty's justices of the peace for the _____ of _____ for that _____

Court to adjudge Costs in certain Cases.

Actions against Justices, &c.

Conviction to be on Oath of Witnesses.

Form of Conviction.

No. XVIII.

9 Geo. IV.

c. 61.

Convictions to be returned to the Quarter Sessions, and filed of Record.

Writ of Certiorari not to be allowed.

Commencement of this Act.

Repeal of 5 & 6 Ed. 6. c. 25.

1 Jac. 1. c. 9.

4 Jac. 1. c. 4 & 5.

7 Jac. 1. c. 10.

21 Jac. 1. c. 7.

1 Car. 1. c. 4.

3 Car. 1. c. 3.

9 G. 2. c. 23.
§ 14, 15, 20.

24 G. 2. c. 40.
§ 24.

26 G. 2. c. 13.
§ 12.

26 G. 2. c. 31.

28 G. 2. c. 19.
§ 2.

‘[here state the offence, and the time and place when committed,] whereby the said A. B. has forfeited the sum of _____ this being adjudged to be the first [or second or third] offence [as the case shall happen to be,] against the provisions of an Act to regulate the granting of licences to keepers of inns alehouses and victualling-houses, in England, besides the costs of this conviction, which _____ the said justices do hereby assess at the sum of _____ pursuant to the statute in such case made and provided. Given under _____ hand and seal, the day and year above written.’

XXXIII. And be it further enacted, That every justice before whom any such conviction shall have been made shall return the same, or cause it to be returned, to the next general or quarter session of the peace holden for the county or place wherein the offence shall have been committed; and it shall be then and there delivered to the clerk of the peace, or other person acting as such, to be by him filed or inrolled amongst the records of the said court; and the certificate of the clerk of the peace, of such conviction, which he is hereby required to grant on demand upon payment of a fee of one shilling, shall be legal evidence of every such conviction.

XXXIV. And be it further enacted, That no conviction under this Act, nor any adjudication made on appeal therefrom, shall be quashed for want of form, or be removed, by writ of certiorari or otherwise, into any of his Majesty's superior Courts of Record; and no warrant of commitment shall be held void by reason of any defect therein, provided it be therein alleged that the party has been convicted, and that there be a good and valid conviction to sustain the same.

XXXV. And be it further enacted, That this Act shall commence on the tenth day of October next ensuing the passing thereof; and that from and after the commencement of this Act, an Act passed in the fifth and sixth years of the reign of King Edward the Sixth, intituled *An Act for Keepers of Alehouses and Tippling-houses to be bound by Recognizances*; and an Act passed in the first year of the reign of King James the First, intituled *An Act to restrain the inordinate haunting and tippling in Inns Alehouses and other Victualling-houses*; and two Acts passed in the fourth year of the same reign, the one intituled *An Act to restrain the Utterance of Beer and Ale to Alehouse-Keepers and Tipplers not licensed*; and the other intituled *An Act for repressing the odious and loathsome Sin of Drunkenness*; and an Act passed in the seventh year of the same reign, intituled *An Act for Reformation of Alehouse-Keepers*; and so much of an Act passed in the twenty-first year of the same reign, intituled *An Act for the better repressing of Drunkenness, and restraining the inordinate haunting of Inns Alehouses and other Victualling-houses*, as provides, that any person being an alehouse keeper, and who shall be convicted of any offence against the said Act, shall be disabled from keeping an alehouse for three years; and an Act passed in the first year of the reign of King Charles the First, intituled *An Act for the further Restraint of tippling in Inns Alehouses and other Victualling-houses*; and an Act passed in the third year of the same reign, intituled *An Act for better suppressing of unlicensed Alehouse-Keepers*; and so much of an Act passed in the ninth year of the reign of King George the Second, for laying a duty upon the retailers of spirituous liquors, and for licensing the retailers thereof, as relates to the licensing of such retailers, and to the conviction of persons selling liquors by retail without a licence, and to the summoning of excise officers, for the more easy discovery of such offenders; and so much of an Act passed in the twenty-fourth year of the same reign, for granting an additional duty upon spirituous liquors, and other purposes, as relates to the fees of justices' clerks; and so much of an Act passed in the twenty-sixth year of the same reign, for preventing the fraudulent removal of tobacco, and other purposes, as prevents justices of the peace in certain cases from granting licences; and the whole of another Act passed in the same year, intituled *An Act for regulating the manner of licensing Alehouses in the Part of Great Britain called England, and for the more easy convicting Persons selling Ale and other Liquors without Licence*; and so much of an Act passed in the

ty-eighth year of the same reign, as explains a clause in the last-mentioned Act; and so much of an Act passed in the twenty-ninth year of the same reign, intituled *An Act for granting to His Majesty a Duty upon Sales for retailing Beer Ale and other exciseable Liquors, and for establishing a Method for granting such Licences in Scotland, and for allowing such Duties to be granted at a Petty Session in England, in a certain case therein mentioned*, as relates to continuing and renewing licences; and so much of an Act passed in the thirtieth year of the same reign, for (among other purposes) preventing gaming in public-houses by journeymen, apprentices, servants, and apprentices, as imposes a penalty on the keepers of public-houses for suffering gaming; and so much of an Act passed in the fifth year of the reign of King George the Third, intituled *An Act for amending the Stamp Duties upon Admissions into Corporations or Companies, and for further securing and improving the Stamp Duties in Great Britain*, as requires retailers of exciseable liquors to exhibit their licences, and to deliver lists of persons licensed, and altering the penalty of such retailers selling without a licence; and the whole of an Act passed in the thirty-second year of the same reign, intituled *An Act for amending so much of Two Acts made in the Twenty-sixth and Twenty-ninth years of the Reign of His late Majesty King George the Second, as relates to the licensing of Alehouse-Keepers and Victuallers, and for better regulating the Manner of granting such Licences in future, and also of granting Licences to Persons selling Wines to be drunk in their Houses*; and so much of an Act passed in the thirty-eighth year of the same reign, intituled *An Act to amend several Laws of Excise relating to Coachmakers, Cartwrights, Beer and Cyder exported, Certificates and Debentures, Stamps on Hides and Skins, Drawbacks on Wines and Sweets, and Ale and Beer Licences*, as exempts from the foregoing penalty persons selling beer or ale above certain quantities; and the whole of an Act passed in the thirty-ninth year of the same reign, intituled *An Act for ascertaining the Rate of Duty to be paid for Retail Spirit Licences, and for authorizing the Justices of the Peace for any County to grant Licences to sell Ale Beer or other Liquors by Retail, in Cities and Places where a sufficient Number of Magistrates cannot be found qualified to grant such Licences*; and so much of an Act passed in the forty-eighth year of the same reign, intituled *An Act to repeal the Stamp Duties on Licences granted by Justices of the Peace for selling Ale Beer and other exciseable Liquors by Retail, and for granting other Duties thereon*, as relates to the form of justices' licences, and to justices' clerks' fees; and so much of an Act passed in the fourth year of his present Majesty's reign, intituled *An Act for altering the Time for holding General Annual Meetings for licensing Alehouses within the County of Middlesex, and for authorizing the Justices of the Peace for the said County to remunerate High Constables*, as alters the time for holding such meetings, and for giving notices of applying for licences for houses not before licensed, shall be and the same are hereby repealed; except only such parts of any of the said Acts as repeal any former Acts or parts of Acts, and except also, that all licences granted and recognizance entered into under the said Acts hereby repealed, or any of them, or under an Act passed in the third year of his present Majesty's reign, intituled *An Act for amending the Laws for regulating the Manner of licensing Alehouses in that Part of the United Kingdom called England, and for the more effectually preventing Disorders therein*, shall remain in full force and virtue until the end of the terms for which such licences and recognizances respectively have been or shall be granted or entered into; and all offences against the tenor of the said licences, or in breach of the conditions of such recognizances, and all offences committed against the said recited Acts, or any of them, before the commencement of this Act, shall and may be prosecuted, heard, determined, and punished, as if this Act had not been made; and all such offences committed after the commencement of this Act shall be prosecuted, heard, determined, and punished under the provisions of this Act.

XXXVI. Provided always, and be it further enacted, That nothing in this Act not to affect the Two Universities; nor to alter Time of licensing in London

No. XVIII.

9 Geo. IV.
c. 61.29 G. 2. c. 12.
§ 23, 24.
30 G. 2. c. 24.
§ 14.5 G. 3. c. 46.
§ 20, 21, 22.

32 G. 3. c. 59.

38 G. 3. c. 54;
§ 13.

39 G. 3. c. 86.

48 G. 3. c. 143.
§ 7. 10.4 G. 4. c. 125.
§ 1—6.

Except such Parts of Acts as repeal former Acts, and except as to subsisting Licences and Recognizances.
3 G. 4. c. 77.

No. XVIII.
9 Geo. IV.
c. 61,

nor any Law of
Excise; nor to
prohibit the
Sale of Beer at
Fairs in certain
Cases.

Rules for the
Interpretation
of this Act.

this Act contained shall extend to alter or in any manner to affect any of the rights or privileges of the Universities of *Oxford* or *Cambridge*, or the powers of the chancellors or vice-chancellors of the same, as by law possessed under the respective charters of the said universities, or otherwise; or the master, wardens, freemen, and commonalty of the vintners of the city of *London*, but not to extend to those freemen of the said company of vintners who have obtained the same by redemption only; nor to alter the time of granting licences for keeping inns in the city of *London*: Provided also, that nothing in this Act contained shall alter any law relating to the revenue of Excise, except so far as the same is hereby expressly altered and otherwise provided for; nor to prohibit any person from selling beer in booths or other places at the time and within the limits of the ground or place in or upon which is holden any lawful fair, in like manner as such person was authorized to do before the passing of this Act.

XXXVII. And in order to remove doubts as to the meaning of certain words in this Act, be it enacted, That the word "justice" shall be deemed to mean justice of the peace; and that the words "treasurer of the county or place" shall be deemed to include any officer acting in such capacity, or charged with the receipt and expenditure of monies from and out of which the cost of public prosecutions have been usually defrayed; that the words "peace officer" shall be deemed to include any petty constable, tithingman, headborough, beadle, or bailiff; that the words "parish officer" shall be deemed to include any churchwarden chapelwarden or overseer of the poor; and that the said words "justice," "treasurer of the county or place," "peace officer," "parish officer," and the words "high constable," and the words "petty constable," and the words "overseer of the poor," and the words "clerk of justices," shall each be deemed to include any person acting as such, and any number of justices, treasurers, peace officers, parish officers, high constables, petty constables, overseers of the poor, and clerks of justices; and that the word "person," and the word "party," shall be deemed to include any number of persons and parties; and that the meaning of the aforesaid several words shall not be restricted, although the same may be subsequently referred to in the singular number and masculine gender only; and that the word "notice," and the word "licence," and the word "adjournment," and the word "day," and the word "time," and the word "house," and the word "place," shall each be deemed to include any number of notices, licences, adjournments, days, times, houses, or places; and that the word "county," and the words "county or place," shall be deemed severally to include any county, riding, division of the county of *Lincoln*, hundred, division of a county, liberty, division of a liberty, county of a city, county of a town, city, Cinque Port, or town corporate; and the words "division or place" shall be deemed to include any division of a county or riding, liberty, division of a liberty, county of a city, county of a town, city, Cinque Port, or town corporate; and that the words "parish or place" shall be deemed to include any township, hamlet, tithing, vill, extra-parochial place, or any place maintaining its own poor; and that the word "inn" shall be deemed to include any inn, alehouse, or victualling-house; and that the word "inn alehouse or victualling-house" shall be deemed to include all houses in which shall be sold by retail any exciseable liquor, to be drunk or consumed on the premises; and that the words "exciseable liquor" shall be deemed to include any ale beer or other fermented malt liquor, sweets, cyder, perry, wine, or other spirituous liquor which now is or hereafter may be charged with duty either by customs or excise; and that the word "penalty" shall be deemed to include any fine penalty or forfeiture of a pecuniary nature; and that the meaning of the said several words shall not be restricted, although the same may be subsequently referred to in the singular number only.

SCHEDULES to which this Act refers.

No. XVIII.

9 Geo. IV.

c. 61.

A.

NOTICE to be affixed on the door of the house, and of the church or chapel, or on other conspicuous place, when it is intended to apply for a licence to sell exciseable liquors by retail, to be drunk or consumed in a house not then kept as an inn alehouse or victualling-house.

TO the overseers of the poor, and the constables of the parish of

, and to all whom it may concern:

I *A. B.* [*state the trade or occupation,*] now residing at

the parish of _____ in the county of _____

months last past having resided at

in the parish of _____

[*or in the several parishes of*

] in the

county [*or in the counties of*

], do hereby give notice,

that if application is intended to be made to a special session, here state the reason for such application it is my intention to apply at the general annual licensing meeting [*or at the special session*] to be holden at

on the _____ day of _____

next ensuing, for a

licence to sell exciseable liquors by retail, to be drunk or consumed in the house or premises thereunto belonging, situate at [*here describe the house intended to be opened, specifying the situation of it, the person of whom rented, the present or late occupier, whether kept or used as an inn alehouse or victualling-house within the three years preceding; and if so, by whom and under what sign*]; and which I intend to keep as an inn alehouse or victualling-house.

Given under my hand this

day of _____

one

thousand eight hundred and _____

N. B.—A copy of this notice to be served upon one of the overseers of the poor, and upon one of the constables or other peace officers of the parish in which is situate the house intended to be opened.

B.

NOTICE of the Intention of a licensed victualler to apply at the special session for permission to transfer such licence to some other person.

TO the overseers of the poor and the constables of the parish of _____ in the county of _____, and to all whom it

may concern:

I *A. B.* [*or we, the executors, &c. &c. of the late A. B.*] victualler, being authorized by virtue of the licence granted to me [*or him, or her*] at the general annual licensing meeting [*or special session*] held at _____ on the _____ day of _____

one thousand eight hundred and _____

to sell exciseable liquor

by retail, to be drunk or consumed in the house or premises thereunto belonging, situate at [*here describe the situation of the house*], and commonly known by the sign of the _____, do hereby give notice,

that it is my [*or our*] intention to apply at the special session to be holden at _____ in the county of _____

on the _____ day of _____

one thousand eight hundred and _____

for permission to transfer the above-mentioned licence

to *C. D.* [*state his trade or occupation*] now residing at _____

in the parish of _____ in the county of _____

and for six months last past having resided at _____

[*or in the*

several parishes of _____

] in the county of _____

[*or counties of*

], that the said *C. D.* intending to keep

as an inn alehouse or victualling-house, the said house so as aforesaid kept by me [*or us*] may sell exciseable liquors by retail, to be drunk or consumed in the said house, or premises thereunto belonging.

Given under my hand this

day of _____

one thousand eight hundred and _____

No. XIX.

9 Geo. IV.

c. 68.

N. B.—A copy of this notice to be served upon one of the overseers of the poor, and upon one of the constables or other peace officers of the parish in which is situate the house kept by the person whose notice it is.

C.

FORM OF LICENCE.

At the general annual licensing meeting [or an adjournment of the general annual licensing meeting, or at a special petty session] of his Majesty's justices of the peace acting for the division [or liberty, &c., as the case may be] of _____ in the county of _____ holden at _____ on the _____ day of _____ in the year one thousand eight hundred and _____, for the purpose of granting licences to persons keeping inns alehouses and victualling-houses, to sell exciseable liquors by retail, to be drunk or consumed on their premises, we, being _____ of his Majesty's justices of the peace acting for the said county, [or liberty, &c. &c. as the case may be,] and being the majority of those assembled at the said session, do hereby authorize and empower A. L. now dwelling at _____ in the parish of _____ and keeping [or intending to keep] an inn alehouse or victualling-house at the sign of the _____ in the _____ of _____ in the division and county aforesaid, to sell by retail therein, and in the premises thereunto belonging, all such exciseable liquors as the said A. L. shall be licensed and empowered to sell under the authority and permission of any excise licence, and to permit all such liquors to be drunk or consumed in his said house or in the premises thereunto belonging; provided that he [or she] do not fraudulently dilute or adulterate the same, or sell the same knowing them to have been fraudulently diluted or adulterated; and do not use in selling thereof any weights or measures that are not of the legal standard; and do not wilfully or knowingly permit drunkenness or other disorderly conduct in his [or her] house or premises; and do not knowingly suffer any unlawful games or any gaming whatsoever therein; and do not knowingly permit or suffer persons of notoriously bad character to assemble and meet together therein; and do not keep open his or her house except for the reception of travellers, nor permit or suffer any beer or other exciseable liquor to be conveyed from or out of his [or her] premises, during the usual hours of the morning and afternoon divine service in the church or chapel of the parish or place in which his [or her] house is situated, on Sundays Christmas Day or Good Friday, but do maintain good order and rule therein; and this licence shall continue in force from the _____ day of _____ next until the _____ day of _____ then next ensuing, and no longer: Provided, that the said A. L. shall not in the meantime become a sheriff's officer, or officer executing the process of any court of justice, in either of which cases this licence shall be void. Given under our hands and seals, on the day and at the place first above written.

[No. XIX.] 9 Geo. IV. c. 68.—An Act to amend an Act of the fifth year of His present Majesty, for amending the Laws of Excise relating to Retail Brewers.—[19th July 1828.]

3 G. 4. c. 54.

WHEREAS by an Act passed in the fifth year of the reign of his present Majesty, intituled *An Act to repeal the Duties on Licences to brew and to retail Beer Spirituous Liquors and Foreign Wine, and to grant other Duties in lieu thereof, and amend the Laws of Excise relating to such Duties, and to Brewers and Retailers of Beer*, it is enacted, that no licensed brewer of beer for sale, who shall also be duly licensed to retail such beer under this Act, shall sell deliver or send out at or from his her or their brewery, or the premises belonging thereto, or entered as aforesaid in the

Act, or to any of his her or their customers, any beer in any quantity than a whole barrel, except between the hours of six of the clock in morning and nine of the clock in the evening, or shall sell deliver or d out any beer during the usual hours of divine service on *Sundays*, a pain of forfeiting for each and every such offence the sum of twenty punds: And whereas it is expedient that the time during which such wens shall be allowed to sell beer should be extended; be it therefore act by the King's most excellent Majesty, by and with the advice and sent of the Lords Spiritual and Temporal, and Commons, in this pre- Parliament assembled, and by the authority of the same, That from after the passing of this Act it shall be lawful for any such brewer in the said Act is in that behalf mentioned to sell beer by retail as aresaid, at or from his her or their brewery, or other premises entered such brewer for that purpose as in the said Act is provided, between the hour of four of the clock in the morning and ten of the clock in evening, subject nevertheless in all other respects to the several rules tations and restrictions by and in the said Act enacted and con- tained.

No. XIX.
9 Geo. IV.
c. 68.

Brewers li-
censed under
the recited Act
may sell Beer
between the
Hours of Four
in the Morning
and Ten in the
Evening.

PART VI.

CLASS II.

Apprentices.

[No. 1.] 5 Eliz. c. 4. (1.)—An Act containing divers Orders for Artificers, Labourers, Servants of Husbandry, and Apprentices:

5 Eliz. c. 4.
A Repeal of so much of former Statutes as concerns the Hiring, Keeping, Departing, Working, or Order of Servants, Labourers, &c.
And a Declaration who shall be compellable to serve in Handicrafts and who in Husbandry, and their several Duties, &c.

‘ALTHOUGH there remain and stand in force presently a great number of Acts and Statutes concerning the retaining departing wages and orders of apprentices servants and labourers, as well in husbandry as in divers other arts mysteries and occupations; yet partly for the imperfection and contrariety that is found and doth appear in sundry of the said laws, and for the variety and number of them, and chiefly for that the wages and allowances limited and rated in many of the said statutes are in divers places too small, and not answerable to this time, respecting the advancement of prices of all things belonging to the said servants and labourers; the said laws cannot conveniently, without the great grief and burden of the poor labourer and hired man, be put in good and due execution: And as the said several Acts and Statutes were, at the time of the making of them, thought to be very good and beneficial for the commonwealth of this realm (as divers of them are): So if the substance of as many of the said laws as are meet to be continued shall be digested and reduced into one sole law and statute, and in the same and uniform order prescribed and limited concerning the wages and other orders for apprentices servants and labourers, there is good hope that it will come to pass that the same law (being duly executed) should banish idleness, advance husbandry, and yield unto the hired person both in the time of scarcity and in the time of plenty, a convenient proportion of wages.’

(1) This Statute, of which the greater part has long been obsolete in practice and inapplicable to the state of society, was probably deemed a masterpiece of wisdom and policy at the time of its being passed, when the general fashion was to submit all matters of private interest as much as possible to public regulation. The provision which precluded persons from exercising such occupations as their own convenience might suggest, without having served an apprenticeship, was allowed to continue its operation in the depression of talent and industry, and the encouragement of illegal combination, in opposition to the judgment of every enlightened inquirer, the lessons of experience, the discouragement of Courts of Justice, and the frequent interposition of the legislature, in creating particular exceptions, until the Session of Parliament immediately preceding the present publication, when the commerce of the country was fortunately relieved from its pressure.—See Statute 54 Geo. III. c. 96.—A very able and judicious view of the real motives and purposes of the Act for the discouragement of commerce and manufactures, on account of their supposed opposi-

tion to the interests of agriculture, is taken in a Tract recently published, and included in the 5th volume of a periodical publication, called the Pamphleteer.

The Provisions of this Act, and of the subsequent Statute of 1 James I. for enabling and requiring justices of peace to regulate the rate of wages, (manifestly, however injudiciously, intended to operate in favour of masters,) after continuing dormant for a long space of time, were lately endeavoured to be brought into operation by combinations of workmen: an attempt which occasioned their repeal, by Stat. 53 Geo. III. c. 40. See Post Title *Servants*.

I have thought it advisable, notwithstanding the repeals above noticed, to retain the whole of the Statute.

The Statute relates only to such persons who bind themselves as apprentices as are under age, and not to adults. *Smedley v. Gooden*, 3 M. & S. 189.

Quere, Whether a master who exercises a trade not within the Statute can legally take an apprentice? *Gye v. Felton*, 4 Taunt. 876.

II. Be it therefore enacted by the authority of this present Parliament, That as much of all the statutes heretofore made, and every branch of them as touch or concern the hiring keeping departing working wages or order of servants workmen artificers apprentices and labourers, or any of them, and the penalties and forfeitures concerning the same, shall be, from and after the last day of *September* next ensuing, repealed and utterly void and of none effect; and that all the said statutes and every branch thereof, or any matter contained in them and not repealed by this statute, shall remain and be in full force and effect; any thing in this statute to the contrary notwithstanding.

III. And be it further enacted by the authority aforesaid, That no manner of person or persons after the aforesaid last day of *September* now next ensuing, shall retain hire or take into service or cause to be retained hired or taken into service, nor any person shall be retained hired or taken into service by any means or colour, to work for any less time or term than for one whole year in any of the sciences crafts mysteries or arts of clothiers woollen cloth weavers tuckers fullers clothworkers shermen dyers hosiers taylor shoemakers tanners pewterers bakers brewers glovers cutlers smiths farriers curriers sadlers spurriers turners cappers hatmakers or feltmakers bowyers fletchers arrow-head-makers butchers cooks or millers.

IV. And be it further enacted, That every person being unmarried, and every other person being under the age of thirty years, that after the Feast of *Easter* next shall marry, and having been brought up in any of the said arts crafts or sciences; or that hath used or exercised any of them by the space of three years or more; and not having lands tenements rents or hereditaments, copyhold or freehold, of an estate of inheritance or for term of any life or lives, of the clear yearly value of forty shillings; nor being worth of his own goods the clear value of ten pound; and so allowed by two justices of the peace of the county where he hath most commonly inhabited by the space of one whole year, and under their hands and seals, or by the mayor or other head officer of the city borough or town corporate where such person hath most commonly dwelt by the space of one whole year, and two aldermen or two other discreet burgesses of the same city borough or town corporate, if there be no aldermen, under their hands and seals; nor being retained with any person in husbandry, or in any of the aforesaid arts and sciences according to this statute; nor lawfully retained in any other art or science; nor being lawfully retained in household or in any office with any nobleman gentleman or others, according to the laws of this realm; nor have a convenient farm or other holding in tillage, whereupon he may employ his labour; shall, during the time that he or they shall be so unmarried, or under the said age of thirty years, upon request made by any person using the art or mystery wherein the said person so required hath been exercised (as is aforesaid) be retained; and shall not refuse to serve according to the tenor of this statute upon the pain and penalty hereafter mentioned.

V. And be it further enacted, That no person which shall retain any servant shall put away his or her said servant, and that no person retained according to this statute shall depart from his master mistress or dame before the end of his or her term, upon the pain hereafter mentioned, unless it be for some reasonable and sufficient cause or matter to be allowed before two justices of peace, or one at the least, within the said county, or before the mayor or other chief officer of the city borough or town corporate wherein the said master mistress or dame inhabiteth, to whom any of the parties grieved shall complain; which said justices or justice mayor or chief officer shall have and take upon them or him the hearing and ordering of the matter betwixt the said master or mistress or dame and servant, according to the equity of the cause.

mined by a Justice of Peace, Mayor, Bailiff, &c.

VI. And that no such master mistress or dame shall put away any such servant at the end of his term, or that any such servant shall depart

No. I.

5 Eliz. c. 4.

No Person shall retain a Servant in these Sciences under one whole Year.

What Sort of Persons are compellable to serve in any of the Crafts aforesaid.

No Person shall put away his Servant, nor shall any Servant depart from his Master before the end of his Time.

The Cause of putting away Servants, or their departing, to be deter-

No Servant shall depart, or be put away, but upon a Quarter's Warning.

No. I.

5 Eliz. c. 4.

What Sort of
Persons are
compellable to
serve by the
Year in Hus-
bandry,

from his said master mistress or dame at the end of his term, without one quarter's warning given before the end of his said term, either by the said master mistress or dame or servant, the one to the other, upon the pain hereafter ensuing.

VII. And be it further enacted by the authority aforesaid, That every person between the age of twelve years and the age of sixty years, not being lawfully retained nor apprentice with any fisherman or mariner haunting the seas; nor being in service with any kiddor or carrier of any corn grain or meal for provision of the city of London; nor with any husbandman in husbandry; nor in any city town corporate or market town, in any of the arts or sciencies limited or appointed by this estatute to have or take apprentices; nor being retained by the year or half the year at the least for the digging seeking finding getting melting fining working trying making of any silver tin lead iron copper stone sea-coal stone-coal moor-coal or chark-coal; nor being occupied in or about the making of any glass; nor being a gentleman born; nor being a student or scholar of any of the Universities, or in any school; nor having lands tenements rents or hereditaments, for term of life or of estate of inheritance of the clear yearly value of forty shillings; nor being worth in goods and chattels of the value of ten pound; nor having a father or mother then living or other ancestor whose heir apparent he is, then having lands tenements or hereditaments of the yearly value of ten pound or above, or goods or chattels to the value of forty pound; nor being a necessary or convenient officer or servant lawfully retained, as is aforesaid; nor having a convenient farm or holding, whereupon he may or shall employ his labour; nor being otherwise lawfully retained, according to the true meaning of this estatute; shall after the aforesaid last day of September now next ensuing, by virtue of this estatute, be compelled to be retained to serve in husbandry by the year with any person that keepeth husbandry, and will require any such person so to serve within the same shire where he shall be so required.

The Forfeiture
for putting
away his Ser-
vant within his
Term, or at the
end of his Term
without Warn-
ing.

VIII. And be it further enacted by the authority of this present Parliament, That if any person after he hath retained any servant shall put away the same servant before the end of his term, unless it be for some reasonable and sufficient cause to be allowed as is aforesaid; or if any such master mistress or dame shall put away any such servant at the end of his term without one quarter's warning given before the said end as is above remembred; that then every such master mistress or dame so offending, unless he or they be able to prove by two such sufficient witnesses such reasonable and sufficient cause of putting away of their servant or servants during their term, or a quarter's warning given afore the end of the said term as is aforesaid, before the justices of Oyer and Terminer, justices of assize justices of the peace in the quarter sessions, or before the mayor or other head officer of any city borough or town corporate, and two aldermen or two other discreet burgesses of the same city borough or town corporate if there be no aldermen, or before the Lord President and Council established in the marches of Wales, or before the Lord President and Council for the time being established in the north parts, shall forfeit the sum of forty shillings.

The Punish-
ment of a Ser-
vant which per-
formeth not his
Duty in Service
or Departure.

IX. And if any servant retained according to the form of this estatute, depart from his master mistress or dame's service before the end of his term, unless it be for some reasonable and sufficient cause to be allowed as is aforesaid; or if any servant at the end of his term depart from his said master mistress or dame's service without one quarter's warning given before the end of his said term in form aforesaid, and before two lawful witnesses; or if any person or persons compellable and bounden to be retained and to serve in husbandry, or in any other the arts sciencies or mysteries above remembred by the year or otherwise, do (upon request made) refuse to serve for the wages that shall be limited rated and appointed according to the form of this statute; or promise or covenant to serve and do not serve according to the tenor of the same: That then every person so departing away, and every person so refusing to serve for such wages, upon complaint thereof made by the master mistress or dame

of the said servant, or by the party to or with whom the said refusal is made or promise not kept, to two justices of peace of the county, or to the mayor or other head officer of the city borough or town corporate, and two aldermen or two other discreet burghesses of the same city borough or town corporate if there be no aldermen, where the said master mistress or dame, or the said party to or with whom the said refusal is made and promise not kept dwelleth, or to either of the said lords presidents and council of *Wales* and the north, the said justices lords presidents and councils, and also the said mayors or other head officers, and other persons of cities boroughs or towns corporate or any of them as is aforesaid, shall have power by force of this statute to hear and examine the matter; and finding the said servant or the said party so refusing faulty in the premises upon such proofs and good matter as to their discretion shall be thought sufficient to commit him or them to ward, there to remain without bail or mainprise, until the said servant or party so offending shall be bound to the party to whom the offence shall be made, to serve and continue with him for the wages that then shall be limited and appointed according to the tenor and form of this estatute, and to be discharged upon his delivery without paying any fee to the gaoler where he or they shall be so imprisoned.

X. And be it likewise enacted by the authority aforesaid, That none of the said retained persons in husbandry or in any the arts or sciences above remembered after the time of his retainer expired, shall depart forth of one city town or parish to another; nor out of the lath rape wapentake or hundred; nor out of the county or shire where he last served, to serve in any other city town corporate lath rape wapentake hundred shire or county; unless he have a testimonial under the seal of the said city or town corporate, or of the constable or constables or other head officer or officers, and of two other honest householders of the city town or parish where he last served, declaring his lawful departure, and the name of the shire and place where he dwelled last before his departure according to the form hereafter expressed in this Act: Which certificate or testimonial shall be written and delivered unto the said servant, and also registered by the parson vicar or curate of the parish where such master mistress or dame doth or shall dwell, taking for the doing thereof two pence and not above: And the form thereof shall be as followeth:

Memorandum, That A. B. late servant to C. D. of E. husbandman or taylor, &c. in the county, &c., is licensed to depart from his said master, and is at his liberty to serve elsewhere according to the statute in that case made and provided. In witness whereof, &c. Dated the day month year and place &c., of the making thereof.

XI. And be it further enacted by the authority aforesaid, That no person or persons that shall depart out of a service, shall be retained or accepted into any other service, without shewing before his retainer such testimonial as is above remembered to the chief officer of the town corporate, and in every other town and place to the constable curate churchwarden or other head officer of the same where he shall be retained to serve; upon the pain that every such servant so departing without such certificate or testimonial shall be imprisoned until he procure a testimonial or certificate; the which if he cannot do within the space of one and twenty days next after the first day of his imprisonment, then the said person to be whipped and used as a vagabond according to the laws in such cases provided; and that every person retaining any such servant without shewing such testimonial or certificate as is aforesaid, shall forfeit for every such offence five pounds: And if any such person shall be taken with any counterfeit or forged testimonial then to be whipped as a vagabond.

XII. And be it further enacted by the authority aforesaid, That all artificers and labourers being hired for wages by the day or week shall betwixt the midst of the months of *March* and *September* be and continue at their work at or before five of the clock in the morning, and continue at work and not depart until betwixt seven and eight of the clock at night

No. I.
5 Eliz. c. 4.

None may depart forth of the City, Town, Parish, &c., without a Testimonial.

The Form of the Testimonial.

No Servant shall be retained without shewing his Testimonial. Hetley 164.

The Master shall pay v. li. that retaineth a Servant without a Testimonial.

Counterfeit Testimonials

How long Labourers shall continue at their Work.

No. I.

5 Eliz. c. 4.

(except it be in the time of breakfast dinner or drinking, the which times at the most shall not exceed above two hours and a half in a day, that is to say, at every drinking one half hour, for his dinner one hour, and for his sleep when he is allowed to sleep, the which is from the midst of *May* to the midst of *August*, half an hour at the most, and at every breakfast one half hour :) And all the said artificers and labourers between the midst of *September* and the midst of *March* shall be and continue at their work from the spring of the day in the morning until the night of the same day, except it be in time before appointed for breakfast and dinner; upon pain to lose and forfeit one penny for every hour's absence, to be deducted and defaulted out of his wages that shall so offend.

No Artificer or Labourer shall depart before his Work be finished.

XIII. And be it also enacted by the authority aforesaid, That every artificer and labourer that shall be lawfully retained in and for the building or repairing of any church house ship mill or every other piece of work taken in great in task or in gross, or that shall hereafter take upon him to make or finish any such thing or work, shall continue and not depart from the same unless it be for not paying of his wages or hire agreed on, or otherwise lawfully taken or appointed to serve the Queen's Majesty her heirs and successors or for other lawful cause, or without licence of the master or owner of the work or of him that hath the charge thereof, before the finishing of the said work; upon pain of imprisonment by one month without bail or mainprize; and the forfeiture of the sum of five pounds to the party from whom he shall so depart; for the which the said party may have his action of debt against him that shall so depart in any of the Queen's Majesty's Court of Record, over and besides such ordinary costs and damages as may or ought to be recovered by the common laws for or concerning any such offence: in which action no protection wager or law or essoin shall be admitted.

XIV. And that no other artificer or labourer retained in any service to work with the Queen's Majesty or any other person depart from her said Majesty or from the said other person until such time as the work be finished, if the person so retaining the artificer or labourer so long will have him and pay him his wages or other duties; upon pain of imprisonment of every person so departing, by the space of one month.

XV. And for the declaration and limitation what wages servants labourers and artificers either by the year or day or otherwise shall have and receive, Be it enacted by the authority of this present Parliament, That the justices of peace of every shire riding and liberty within the limits of their several commissions or the more part of them being then resiant with the same, and the sheriff of that county if he conveniently may, and every mayor bailiff or other head officer within any city or town corporate wherein is any justice of peace within the limits of the said city or town corporate and of the said corporation, shall before the tenth day of *June* next coming, and afterwards shall yearly at every general sessions first to be holden and kept after *Easter* or at some time convenient within six weeks next following every of the said Feasts of *Easter* assemble themselves together; and they (so assembled) calling unto them such discreet and grave persons of the said county or of the said city or town corporate as they shall think meet, and conferring together respecting the plenty or scarcity of the time and other circumstances necessarily to be considered shall have authority by virtue thereof within the limits and precincts of their several commissions to limit rate and appoint the wages as well of so many of the said artificers handicraftsmen husbandmen or any other labourer servant or workman whose wages in time past hath been by any law or statute rated and appointed, as also the wages of all other labourers artificers workmen or apprentices of husbandry which have not been rated, as they the same justices mayors or head officers within their several commissions or liberties shall think meet by their discretions to be rated limited or appointed by the year or by the day week month or otherwise with meat and drink or without meat and drink, and what wages every workman or labourer shall take by the great for mowing reaping or threshing of corn and grain or for

The Wages of Servants, Labourers, Artificers, shall be assessed by the Justices of Peace, Sheriff, &c.
2 Roll. 269.
Bridgm. 119.

Explained by
1 Jac. 1. c. 6.
§ 3.
Jones Sir Tho.
47.

Repealed by
55 G. 3. c. 40.

mowing or making of hay, or for ditching paving railing or hedging by the rod perch lugg yard pole rope or foot, and for any other kind of reasonable labours or service; and shall yearly before the twelfth day of *July* next after the said assessments and rates so appointed and made certify the same ingrossed in parchment, with the considerations and causes thereof, under their hands and seals into the Queen's most honourable Court of Chancery; whereupon it shall be lawful to the Lord Chancellor of *England* or Lord Keeper of the great seal for the time being, upon declaration thereof to the Queen's Majesty her heirs or successors or to the Lords and others of the Privy Council for the time being attendant upon their persons, to cause to be printed and sent down before the first day of *September* next after the said certificate into every county to the sheriff and justices of peace there and to the said mayor bailiff and head officers ten or twelve proclamations or more containing in every of them the several rates appointed by the said justices and other head officers as is aforesaid, with commandment by the said proclamations to all persons in the name of the Queen's Majesty her heirs or successors straightly to observe the same, and to all justices sheriffs and other officers to see the same duly and severally observed upon the danger of the punishment and forfeiture limited and appointed by this estatute: upon receipt whereof the said sheriffs justices of peace and the mayor and head officer in every city or town corporate shall cause the same proclamations to be entered of record by the clerk of the peace or by the clerk of the city or town corporate. And the said sheriffs justices and other the said mayor and head officers shall forthwith in open markets upon the market-days before *Michaelmas* then ensuing cause the same proclamation to be proclaimed in every city or market-town within the limits of their commission, and the same proclamation to be fixed in some convenient place of the said city and town or in such of the most occupied market towns as to the said sheriffs justices of peace and to the said mayor and head officers shall be thought meet. (2)

Proclamations shall be made of the Rates of the Wages of Servants, &c.

XVI. And if the sheriffs justices of the peace or the mayor or head officer shall at their said general sessions or at any time after within six weeks then following, upon their assembly and conference together, think it convenient to retain and keep for the year then to come the rates and proportions of wages that they certified the year before, or to change or to reform them or some part of them; then they shall before the said twelfth day of *July* yearly certify unto the said court of Chancery their resolutions and determinations therein to the intent that the proclamations may accordingly be renewed and sent down. And if it shall happen that there be no need of any reformation or alteration of the rates of the said wages, but that the former shall be thought meet to be continued; then the proclamations for the year past shall remain in force until new proclamations upon new rates concerning the said wages shall be sent down according to the form of this estatute.

Continuance or Alteration of the Rates of Wages at the Justices Discretion.

XVII. And be it further enacted by authority of this present Parliament, That if all the said justices of peace resident within the counties where they are or shall be justices of peace mayors and head officers, do not before the tenth day of *June* next coming and afterward yearly appear and assemble at the said general sessions or within six weeks next after the said general sessions and limit and rate the wages of the said servants and labourers, or shall not consider whether the former rates made be meet to be continued or to be altered and reformed in manner and form aforesaid or be negligent or remiss in the certificate thereof in form above written, that then every justice of peace of the county and

The Fine of the Justices, Mayor, Bailiff, &c. which be absent at the Taxing of Servants Wages.

(2) Where the Weavers presented a petition to the Justices at Sessions, praying them to limit a rate of wages, according to the provisions of Stat. 5 Eliz. c. 4, § 15, and 1 Ja. I. c. 6, § 3, and the Justices heard the Petition and Counsel in support of it, and after making inquiry and examining witnesses upon the subject, determined

that they could not make any rate more beneficial to the Weavers; the Court refused a mandamus to the Justices to hear and determine, although they did not examine the witnesses tendered by the Petitioners, nor any witnesses, upon oath, or in open Court. *Rex v. Cumberland Justices*) 1 M & S. 190.

No. I.
5 Eliz. c. 4.

every mayor or head officers of the city or town corporate in whom any such default or negligence shall be found being within the said county city or town corporate at the time of the said next assembly or at the time of the said sessions or at the times of the said rates of wages to be set within six weeks next after every such sessions and not visited with any such sickness as he could not travel thither without peril and danger of his life, or not having any other lawful and good excuse to be allowed by the justices then assembled for the rating and taxing of wages as is aforesaid, or by the more part of them, upon a corporal oath and affidavit to be taken and made openly before the said justices upon the Holy Evangelists by some credible person assessed and taxed in the book of subsidy of that county to the clear value of five pounds at the least or by such other person as the most part of such justices shall allow and accept to take such oath, shall for such default or negligence forfeit unto the Queen's Majesty her heirs and successors ten pounds of lawful money of *England*.

The Punish-
ment of him
that giveth more
Wages than is
taxed by the
Justices, &c.

XVIII. And be it further enacted by the authority aforesaid, That if any person after the said proclamation shall be so sent down and published shall by any secret ways or means directly or indirectly retain or keep any servant workman or labourer, or shall give any more or greater wages or other commodity contrary to the true intent and purport of the statute, or contrary to the rates or wages that shall be assessed or appointed in the said proclamations; that then every person that shall so offend and be thereof lawfully convicted before any of the justices or other head officers above remembered or either of the said presidents and counsils, shall suffer imprisonment by the space of ten days without bail or mainprise, and shall lose and forfeit five pounds of lawful money of *England*.

The Punish-
ment of the
Servant, La-
bourer, &c. that
taketh more
Wages than is
taxed.

XIX. And that every person that shall be so retained and take wages contrary to this statute or any branch thereof or of the said proclamation, and shall be thereof convicted before the justices aforesaid or any two of them, or before the mayor or other head officers aforesaid, shall suffer imprisonment by the space of one and twenty days without bail or mainprise.

Every retaining
contrary to this
Statute shall be
void.

XX. And that every retainer promise gift or payment of wages or other thing whatsoever contrary to the true meaning of this statute, and every writing and bond to be made for that purpose shall be utterly void and of none effect.

The Punish-
ment of the Ser-
vant that
maketh Assault
upon his Master,
Mistress, Dame,
or Overseer.

XXI. And be it enacted by the authority aforesaid, That if any servant workman or labourer shall wilfully or maliciously make any assault or affray upon his master mistress or dame, or upon any other that shall at the time of such assault or affray have the charge or oversight of any such servant workman or labourer or of the work wherein the said servant workman or labourer is appointed or hired to work, and being thereof convicted before any two of the justices mayor or other head officer aforesaid where the said offence is committed, or before either of the said lords presidents and council before remembered by confession of the said servant workman or labourer, or by the testimony witness and oath of two honest men; that then every such offender shall suffer imprisonment by the space of one whole year or less by the discretion of two justices of peace if it be without a town corporate; and if it be within a town corporate then by the discretion of the mayor or head officer of the same town corporate with two others of the discreetest persons of the same corporation at the least: And if the offence shall require further punishment then to receive such other open punishment, so as it extend not to life nor limb, as the justices of peace in open sessions or as the more part of them or the said mayor or head officer and six, or four at the least, of the discreetest persons of the same corporation, before whom the offence shall be examined, shall think convenient for the quality of the said offence so done or committed.

Artificers com-
pellable to work
in Haytime and
revest.

XXII. Provided always, and be it enacted by the authority aforesaid, That in the time of hay or corn harvest the justices of peace and every of them, and also the constable or other head officer of every township upon


request, and for the avoiding of the loss of any corn grain or hay, shall and may cause all such artificers and persons as be meet to labour, by the discretions of the said justices or constables or other head officers or by any of them, to serve by the day for the mowing reaping shearing getting or inning of corn grain and hay according to the skill and quality of the person; and that none of the said persons shall refuse so to do upon pain to suffer imprisonment in the stocks by the space of two days and one night: And the constable of the town or other head officer of the same where the said refusal shall be made, upon complaint to him made, shall have authority by virtue hereof to set the said offender in the stocks for the time aforesaid, and shall punish him accordingly upon pain to lose and forfeit for not doing thereof the sum of forty shillings.

XXIII. Provided also, That all persons of the counties where they have accustomed to go into other shires for harvest-work and having at that time no harvest-work sufficient in the same town or county where be or they dwell in the winter then last past, bringing with him or them a testimonial under the hand and seal of one justice of the peace of the shire, or other head officer of the town or place that he or they come from, testifying the same, for the which he shall pay not above one penny (other than such persons as shall be retained in service according to the form of this estatute) may repair and resort in harvest of hay or corn from the counties wherein their dwelling-places are into any other place or county for the only mowing reaping and getting of hay corn or grain and for the only working of harvest-works, as they might have done before the making of this estatute; any thing herein contained to the contrary notwithstanding.

XXIV. And be it further enacted by the authority aforesaid, That two justices of peace the mayor or other head officer of any city borough or town corporate and two aldermen or two other discreet burgesses of the same city borough or town corporate, if there be no aldermen, shall and may by virtue hereof appoint any such woman as is of the age of twelve years and under the age of forty years and unmarried and forth of service, as they shall think meet to serve, to be retained or serve by the year or by the week or day for such wages and in such reasonable sort and manner as they shall think meet; and if any such woman shall refuse so to serve, then it shall be lawful for the said justices of peace mayor or head officers to commit such woman to ward until she shall be bounden to serve as is aforesaid.

XXV. And for the better advancement of husbandry and tillage and to the intent that such as are fit to be made apprentices to husbandry may be bounden thereunto, be it enacted by the authority of this present Parliament, That every person being an householder and having and using half a plough-land at the least in tillage, may have and receive as an apprentice any person above the age of ten years and under the age of eighteen years to serve in husbandry until the age of one and twenty years at the least, or until the age of twenty-four years as the parties can agree, and the said retainer and taking of an apprentice to be made and done by indenture. (3)

XXVI. And be it further enacted, That every person being an householder, and twenty-four years old at the least, dwelling or inhabiting, or which shall dwell and inhabit in any city or town corporate, and using and exercising any art mystery or manual occupation there, shall and may after the Feast of St. John Baptist next coming, during the time that he shall so dwell or inhabit in any such city or town corporate, and use and exercise any such mystery art or manual occupation, have and retain the son of any freeman not occupying husbandry, nor being a labourer

No. I.
5 Eliz. c. 4.


A Proviso for
some that go
into other
Shires for Work
in Haytime
and Harvest.

Women com-
pellable to serve
that be above
Twelve and under
Forty Years
old, unmarried,
and forth of
Service.

Husbandmen
may take Ap-
prentices.

Every House-
holder dwelling
in any Town
Corporate may
take an Appren-
tice for Seven
Years.

(3) No Contract of Apprenticeship takes place under this Act except by deed indented; and, therefore, no action is maintainable for seducing an apprentice engaged by Deed Poll. *Smith v. Smith* 1 Sess. ca. 222. But by Statute 31 G. II,

c. 11. no Person bound an Apprentice shall be liable to be removed by reason of the Writing not being indented.—This Statute makes no alteration in the Law except with respect to Settlers.

No. I.
5 Eliz. c. 4.

Merchants, &c.
may take no
Apprentices but
such whose Pa-
rents may dis-
pend xl. s. of
Freehold.

Whom they
may have for
their Appren-
tices who dwell
in Market-
Towns not
Corporate.
8 Cok. 129.

What Appren-
tices Mer-
chants, &c.
dwelling in a
Market-Town
not Corporate
may take.
Cro. El. 723.

These Artifi-
cers may take
Apprentices
whose Parents
may dispend no
Land.
1 Lev. 249.
2 Salk. 611.
Carthew 162.
1 Mod. 152.

and inhabiting in the same, or in any other city or town that now is or hereafter shall be and continue incorporate, to serve and be bound as an apprentice after the custom and order of the city of *London* for seven years at the least, so as the term and years of such apprentice do not expire or determine afore such apprentice shall be of the age of twenty-four years at the least.

XXVII. Provided always, and be it enacted, That it shall not be lawful to any person dwelling in any city or town corporate, using or exercising any of the mysteries or crafts of a merchant, trafficking by traffic or trade into any the parts beyond the sea, mercer draper goldsmith ironmonger embroiderer or clothier, that doth or shall put cloth to making and sale, to take any apprentice or servant to be instructed or taught in any of the arts occupations crafts or mysteries which they or any of them do use or exercise, except such servant or apprentice shall be his son, or else that the father and mother of such apprentice or servant shall have, at the time of taking such apprentice or servant lands tenements or other hereditaments of the clear yearly value of forty shillings of one estate of inheritance or freehold at the least, to be certified under the hands and seals of three justices of the peace of the shire or shires where the said lands tenements or other hereditaments do or shall lie, to the mayor bailiff or other head officers of such city or town corporate, and to be inrolled among the records there.

XXVIII. And be it further enacted, That from and after the said Feast of *St. John the Baptist* next, it shall be lawful to every person being an housholder, and four and twenty years old at the least, and not occupying husbandry nor being a labourer dwelling or inhabiting, or that shall hereafter dwell or inhabit in any town not being incorporate, that now is or hereafter shall be a market-town, so long as the same shall be weekly used and kept as a market-town, and using or exercising any art mystery or manual occupation during the time of his abode there, and so using and exercising such art mystery or manual occupation as aforesaid, to have in like manner to apprentice or apprentices, the child or children of any other artificer or artificers not occupying husbandry nor being a labourer, which now do or hereafter shall inhabit or dwell in the same, or in any other such market-town within the same shire to serve as apprentice or apprentices as is aforesaid, to any such art mystery or manual occupation, as hath been usually exercised in any such market-town where such apprentice shall be bound in manner and form above-said.

XXIX. Provided always, and be it enacted, That it shall not be lawful to any person dwelling or inhabiting in any such market-town, using or exercising the feat mystery or art of a merchant, trafficking or trading into the parts beyond the seas, mercer draper goldsmith ironmonger embroiderer or clothier that doth or shall put cloth to making and sale, to take any apprentice, or in any wise to teach or instruct any person in the arts sciences or mysteries last before recited, after the Feast of *St. John Baptist* aforesaid, except such servant or apprentice shall be his son, or else that the father or mother of such apprentice shall have lands tenements or other hereditaments at the time of taking such apprentice of the clear yearly value of three pounds of one estate of inheritance or freehold at the least, to be certified under the hands and seals of three justices of the peace, of the shire or shires where the said lands tenements or other hereditaments do or shall lie, to the head officers or head officer of such market-town where such apprentice or servant shall be taken, there to be inrolled by such head officers always to remain of record.

XXX. And be it further enacted, That from and after the said Feast it shall be lawful to any person using or exercising the art or occupation of a smith wheel-wright plough-wright carpenter rough-mason plaisterer sawyer lime-burner brick-maker bricklayer tiler slater helier tyle-maker linnen-weaver turner cowper millers earthen-potters woollen-weaver weaving huswives or household cloth only and none other cloth-fuller otherwise called tucker or walker burner of oare and wood-ashes thatcher or shingler, wheresoever he or they shall dwell or inhabit, to have or

receive the son of any person as apprentice in manner and form aforesaid, to be taught and instructed in these occupations only and none other, albeit the father and mother of any such apprentice have not any lands tenements or hereditaments.

No. I.

5 Eliz. c. 4.

XXXI. And be it further enacted by the authority aforesaid, That after the first day of *May* next coming it shall not be lawful to any person or persons, other than such as now do lawfully use or exercise any art mystery or manual occupation, to set up occupy use or exercise any craft mystery or occupation now used or occupied within the realm of *England* or *Wales*, except he shall have been brought up therein seven years at the least as an apprentice in manner and form abovesaid; nor to set any person on work in such mystery art or occupation being not a workman at this day, except he shall have been apprentice as is aforesaid; or else having served as an apprentice as is aforesaid shall or will become a journeyman or be hired by the year; upon pain that every person willingly offending or doing the contrary shall forfeit and lose for every default forty shillings for every month. (4)

None may use any Manual Occupation, except he hath been Apprentice to the same, &c.

Repealed
54 G. 3. c. 96.

XXXII. Provided always, and be it further enacted by the authority aforesaid, That no person or persons using or exercising the art or mystery of a woollen cloth-weaver, other than such as be inhabiting within the counties of *Cumberland Westmoreland Lancaster* and *Wales*, weaving frizes cottons or huswives cloth only, making and weaving woollen cloth commonly sold or to be sold by any clothman or clothier, shall take and have any apprentice, or shall teach or in any wise instruct any person or persons in the science art or occupation of weaving aforesaid in any village town or place (cities towns corporate and market towns only except) unless such person be his son, or else that the father or mother of such apprentice or servant shall at the time of the taking of such person or persons to be an apprentice or servant or to be so instructed have lands or tenements or other hereditaments to the clear yearly value of three pounds at the least of an estate of inheritance or freehold, to be certified under the hands and seals of three justices of the peace of the shire or shires where the said lands tenements or other hereditaments do or shall lie; the effect of the indenture to be registered within three months in the parish where such master shall dwell, and to pay for such registering four pence; upon pain of forfeiture of twenty shillings for every month that any person shall otherwise take any apprentice, or set any such person on work contrary to the meaning of this article.

What sort of Persons Woollen Weavers may take Apprentices.

Repealed by
5 & 6 W. & M.
c. 9.

XXXIII. And be it further enacted by the authority aforesaid, That all and every person and persons that shall have three apprentices in any of the said crafts mysteries or occupations of a cloth-maker fuller sheerman weaver taylor or shoemaker shall retain and keep one journeyman, and for every other apprentice above the number of the said three apprentices one other journeyman, upon pain for every default therein ten pounds.

He that hath Three Apprentices must keep One Journeyman.

XXXIV. Provided always, That this Act nor any thing therein contained shall not extend to prejudice or hinder any liberties heretofore granted by an Act of Parliament, to or for the company and occupation of worsted-makers and worsted-weavers within the city of *Norwich* and elsewhere within the county of *Norfolk*, which liberties be in force until the beginning of this present Parliament; any thing herein contained to the contrary in any wise notwithstanding.

A Proviso for the Liberties of Worsted-makers in *Norwich* and *Norfolk*. 14 & 15 H. 8. c. 3.

XXXV. And be it further enacted, That if any person shall be required by any householder having and using half a plough-land at the least in tillage to be an apprentice and to serve in husbandry or in any other kind of art mystery or science before expressed and shall refuse so to do, That

The Punishment of him that refuseth to be an Apprentice.

(4) Quere, Whether a person not having served as Apprentice to the trade of a Miller, who embarked his capital in a mill, which he superintends, and derives the profits of it, through the agency of a Foreman suitably qualified, to whom he gave directions as to the order in which the

Corn of the several Customers should be ground, but no otherwise interfered in the management, and never engaged in the manual exercise of the trade, be liable to the Penalty given by the stat. 5 Eliz. c. 4. § 31. *Kean v. Dormay*, 15 E. R. 161.

No. I.
5 Eliz. c. 4.

then upon the complaint of such housekeeper made to one justice of the peace of the county wherein the said refusal is or shall be made, or of such householder inhabiting in any city town corporate or market town, to the mayor bailiffs or head officer of the said city town corporate or market town if any such refusal shall there be, they shall have full power and authority by virtue hereof to send for the same person so refusing: And if the said justice or the said mayor or head officer shall think the said person meet and convenient to serve as an apprentice in that art labour science or mystery wherein he shall be so then required to serve: That then the said justice or the said mayor or head officer shall have power and authority by virtue hereof, if the said person refuse to be bound as an apprentice, to commit him unto ward, there to remain until he be contented and will be bounden to serve as an apprentice should serve according to the true intent and meaning of this present Act. And if any such (5) master shall misuse or evil entreat (6) his apprentice, or that the said apprentice shall have any just cause to complain or the apprentice do not his duty to his master, (7) then the said master or apprentice being grieved and having cause to complain, shall repair unto one justice of peace within the said county or to the mayor or other head officer of the city town corporate market town or other place where the said master dwelleth, who shall by his wisdom and discretion take such order and direction between the said master and his apprentice as the equity of the cause shall require; and if for want of good conformity in the said master, the said justice of peace or the said mayor or other head officer cannot compound and agree the matter between him and his apprentice, then the said justice or the said mayor or other head officer shall take bond of the said master to appear at the next sessions (8) then to be holden in the said county or within the said city town corporate or market town, to be before the justices of the said county or the mayor or head officer of the said town corporate or market town if the said master dwell (9) within any such; and upon his appearance (10) and hearing of the matter before the said justices or the said mayor or other head officer, if it be thought meet unto them to discharge (11) the said apprentice of his apprenticeship, that then the said justices or four of them at the least whereof one to be of the *quorum*; or the said mayor or other head officer with the assent of three other of his brethren or men of best reputation within the said city town corporate or market town shall have power by

The Remedy for the Apprentice which is misused by his Master, and for the Master when the Apprentice doth not his Duty. 1 *Mod.* 287. 1 *Salk.* 67. 68. 2 *Salk.* 490. 491.

Where an Apprentice may be discharged of his Apprenticeship.

(5) This was held in *R. v. Gately*, 2 *Salk.* 471. to relate only to the occupations mentioned in the Act; but was afterwards, in *Rex v. Collingbourne*, 2 *Ld. Raym.* 1410. 1 *Str.* 663. ruled to be general.

(6) This extends to neglect of instruction. *R. v. Amies*, 1 *Bott.* 574.—A discharge for using unkindly is too loose. *R. v. Easman*, 2 *Str.* 1014.

(7) Incurable sickness (*vis. the King's Evil*) in the apprentice held no ground of discharge. *R. v. Inhabitants of Hales Owen*, 1 *Str.* 99. [But *Qu.* How could this question arise with the inhabitants of a parish?] A discharge of an apprentice, as being an idiot incapable of learning his trade, had been previously held good. *Anon.* *Skin.* 114.

(8) The Sessions have original jurisdiction, without previous application to a Justice of Peace. *R. v. Johnson*, 1 *Salk.* 68.—*R. v. Gill*, 1 *Str.* 143.—*R. v. Davis*, 2 *Str.* 704.—*R. v. Easman*, *Temp. Hard.* 101. But it must be a General Sessions. 2 *Skin.* 98.

(9) The Sessions of Middlesex have jurisdiction, when the Master, being a Freeman of London, dwells there, although the indentures are enrolled in London, notwithstanding the saving of the privileges of the City of London, by *Sec.* 40.

R. v. Collingbourne, *Str.* 663.

(10) The order is good although the Master do not appear, being bound over to do so. *Ditton's Case*, 2 *Salk.* 490.—But the order must set forth that the party appeared or was summoned. *R. v. Gill*, 1 *Str.* 143. *R. v. Easman*, 2 *Str.* 1013.

(11) In *Hawkesworth and Hillary's case*, 1 *Saund.* 314. the Order directed part of the premium to be returned; but the right of doing so does not appear to have been brought before the Court. In *Du Hamel's case*, 2 *Skin.* 108. the Court held that the power to order money to be returned was incident to the power to discharge. So *Rex v. Johnson*, *Salk.* 67.—In *R. v. Vandeleen*, *M. 4. Geo. I. Str.* 69. the Order was to return the Premium, and also to pay 5*l.* as a further provision. The Court said, that it was very hard that if the master misuse his apprentice he should pay nothing back if he is discharged, but the Statute being silent, the Order must be quashed. In *Rex v. Amies*, *H. 6 Geo. II. 1 Bott.* 574. *Pl.* 806. 2 *Barn. K. B.* 244. 296. *See. W.* 190. an opinion is expressed in favour of the power, by *Probyn. I.*; but the Order having been set aside on other grounds, this is merely a dictum, and the case of *R. v. Vandeleen*, against the power, is the latest actual authority upon the subject.

authority hereof in writing under their hands and seals (12) to pronounce and declare, That they have discharged the said apprentice of his apprenticeship and the cause thereof; and the said writing so being made and enrolled by the clerk of the peace or town clerk amongst the records that he keepeth, shall be a sufficient discharge for the said apprentice against his master his executors and administrators; the indenture of the said apprenticeship or any law or custom to the contrary notwithstanding. And if the default shall be found to be in the apprentice, then the said justices or the said mayor or other head officer with the assistance aforesaid shall cause such due correction and punishment to be ministered unto him as by their wisdom and discretions shall be thought meet.

No. I.
5 Eliz. c. 4.

XXXVI. Provided always, and be it enacted by authority of this present Parliament, That no person shall by force or colour of this estatute be bounden to enter into any apprenticeship other than such as be under the age of twenty-one years.

None shall be bound to be Apprentices but those which be under xxi years of age.

XXXVII. And to the end that this estatute may from time to time be carefully and diligently put in good execution according to the tenor and true meaning thereof, be it enacted by authority of this present Parliament, That the justices of peace of every county dividing themselves into several limits, and likewise every mayor and head officer of any city or town corporate shall yearly between the Feast of St. Michael the Archangel and the Nativity of our Lord, and between the Feast of the Annunciation of our Lady and the Nativity of St. John Baptist, by all such ways and means as to their wisdoms shall be thought most meet, make a special and diligent inquiry of the branches and articles of this estatute, and of the good execution of the same; and where they shall find any defaults to see the same severely corrected and punished without favour affection malice or displeasure.

Assembly of the Justices twice in the year for the due Execution of this Statute. Dyer 265. Pl. 3.

XXXVIII. And in consideration of the pains and travel that the said justices of peace and the said mayor and head officer shall take and sustain in and about the execution of this estatute, it is further ordained and enacted by authority of this present Parliament, That every justice of peace mayor or head officer for every day that he shall sit in about the execution of this estatute shall have allowed unto him five shillings, to be allowed and paid unto him or unto the said mayor or head officer, of the fines and forfeitures of the pains and penalties that shall be forfeited and due unto the Queen's Majesty her heirs and successors by force of this estatute, in such manner and form as the said justices have been heretofore commonly paid for their coming and charges at the quarter sessions; so that the sitting of the said justices or mayor or head officer be not at any one time above three days, and for the matters contained in this estatute.

The Justices' Allowance for their Pains.

XXXIX. And be it enacted by the authority aforesaid, That the one half of all forfeitures and penalties expressed and mentioned in this estatute, other than such as are expressly otherwise appointed, shall be to our Sovereign Lady the Queen's Majesty her heirs and successors, and the other moiety to him or them that shall sue for the same in any of the Queen's Majesty's courts of record, or before any of the justices of Oyer and Terminer, or before any other justices or president and council before remembered by action of debt information bill of complaint or otherwise; in which actions or suits, no protections wager of law or essoin shall be allowed; and that the said justices, or two of them, whereof one to be of the *quorum*, and the said presidents and council as is aforesaid, and the said mayors or other head officers of cities or towns corporate shall have full power and authority to hear and determine all and every offence and offences that shall be committed or done against this estatute or against any branch thereof, as well upon indictment to be taken before them in the sessions of the peace, as upon information acc-

Who shall have the Forfeitures mentioned in this Statute. Moor 886. 1 Cro. 499.

Justices of Peace, Mayor, &c. may hear and determine all Offences committed against this Sta-

tute 31 El. c. 5. 1 Salk. 370. 2 Ld. Raym. 767. 6 Mod. 220.

(12) It is a fatal defect if the order do not appear to be under hand and seal. *Hawksworth and Hillary's case*, 1 Saund. 314.—R. s. Gately,

Carth. 198. Comb. 344. (by the name of Gately v. Green) Anon. 2 Salk. 470.

No. I.

5 Eliz. c. 4.

A Proviso for
the Cities of
London and
Norwich.

The Forfeiture
of him that
taketh a Pre-
ntice otherwise
than is limited
by this Statute.

tion of debt or bill of complaint to be sued or exhibited by any person; and shall and may by virtue hereof make process against the defendant and award execution, as in any other case they lawfully may by any the laws and statutes of this realm; and shall yearly in *Michaelmas* Term certify by estreat the fines and forfeitures of every the offences contained in this estatute that shall be found before them into the Court of Exchequer, in like sort and form as they be bound to certify the estreats for other offences and forfeitures to be lost before them; any thing in this statute contained to the contrary notwithstanding.

XL. Provided always, That this Act or any thing therein contained or mentioned shall not be prejudicial or hurtful to the cities of *London* and *Norwich*, or to the lawful liberties usages customs or privileges of the same cities, for or concerning the having or taking of any apprentice or apprentices; but that the citizens and freemen of the same cities shall and may take have and retain apprentices there, in such manner and form as they might lawfully have done before the making of this statute; this Act or any thing therein contained to the contrary in any wise notwithstanding.

XLl. And be it also further enacted, That all indentures covenants promises and bargains of or for the having taking or keeping of any apprentice, otherwise hereafter to be made or taken than is by this statute limited ordained and appointed, shall be clearly void in the law to all intents and purposes; (13) and that every person that shall from hence-

(13) It is fully settled that these words shall not be construed to render the Indenture of Apprenticeship absolutely void, and that it is only voidable; although a different construction is put upon the same words in Statutes 8 Ann, c. 9, 9 Ann, c. 21. imposing a duty on Premiums of Apprenticeship; as to which, see *Jackson v. Warwick*, 7 T. R. 121. The principle that Indentures not conformable to the Statute are only voidable, was first applied to Cases of Settlement; but in *Rex. v. Evered*, Cald. 26. cited 16 East. 2711, it was held that a person who, when an infant, had been bound an apprentice for six years, and, when of age, had run away, (alleging afterwards that he did so with intent to avoid the indentures) was subject to punishment. *Aston I.* said, "Supposing the Indentures voidable, I cannot conceive that the Apprentice's running away could avoid them; had he served regularly, and during such service declared his intention to depart, it might have been different: here he would make use of his offence in order to avoid the punishment that attends it; but it is too late to do it before a Justice when charged with a crime." And this case was admitted as authority in *Gray v. Cookson*, 16 East. 13. In *Rex v. Windingham*, 6 T. R. 557, (a settlement case,) an infant, bound for less than seven years with his master's consent, entered into the King's service; and this was held not to be such an avoidance of the Indenture as to enable him to acquire a settlement by service during the term. Lord Kenyon, after expressing his opinion that the Indenture had not been put an end to, added, "But I desire it may not be taken for granted, that an infant who binds himself apprentice, a contract so notoriously for his own benefit, may put an end to that contract at any time during his minority. I enter my protest against discussing that question now; it will be sufficient to determine it when it necessarily arises." And in *Ashcroft v. Bertles*, 6 T. R. 652, it was ruled, that an action lies for harbouring an

apprentice bound for six years, who left his master's service after attaining the age of 21, and the Court said, that, supposing the Indentures to be void, which they were not prepared to decide, the mere act of quitting the master's service was not an avoidance of them. See note to Section 43, infra.—It is very difficult to conceive how such strong words as those in the Statute respecting contracts being clearly void, could be reconciled to the doctrine, that such contracts were in any respect avoidable; or how the decisions in support of the validity of such contracts can be reconciled with numerous decisions respecting other subjects; or the same subject, as regulated by a different Act, in which similar words have received a construction according to their full and literal signification. Still less is the construction which has prevailed to be reconciled with the general scope and object of the Statute, in subjecting almost every occupation to minute, however injudicious, regulation. Neither can it be conceived, upon what legal principle words, which are so strong and positive in themselves, should not only be reduced in their construction below their natural and ordinary signification, but should be held to be so absolutely nugatory and inefficient as to admit of no possible operation, even with respect to the most solemn and formal avoidance of an instrument, which the law has declared to be absolutely void.—As to the supposition of a contract of apprenticeship being so notoriously for the benefit of the infant, it is a supposition which, when taken generally and indiscriminately, is absolutely and notoriously false; as the actual benefit must depend upon a great many adventitious circumstances, with respect to the kind of occupation, the variations in the course of trade, the skill, the character, and the disposition, of the respective parties. But of all the difficulties incident to the subject, the greatest will be, to reconcile the decision in *Ashcroft v. Bertles*, to that in the case *ex parte Davies*, mentioned in the following Note.

forth take or newly retain any apprentice contrary to the tenor and true meaning of this Act, shall forfeit and lose for every apprentice so by him taken the sum of ten pounds.

XLII. And because there hath been and is some question and scruple moved, whether any person being within the age of one and twenty years, and bounden to serve as an apprentice in any other place than in the said city of London, should be bounden accepted and taken as an apprentice;

years is compellable to serve. Cro. Car. 179.

XLIII. For the resolution of the said scruple and doubt, be it enacted by authority of this present Parliament, That all and every such person or persons that at any time or times from henceforth shall be bounden by indenture to serve as an apprentice in any art science occupation or labour, according to the tenor of this estatute and in manner and form aforesaid, albeit the same apprentice or any of them shall be within the age of one and twenty years at the time of the making of their several indentures, shall be bounden to serve for the years in their several indentures contained, as amply and largely to every intent as if the same apprentice were of full age at the time of the making of such indentures; any law usage or custom to the contrary notwithstanding. (14)

XLIV. Provided always, and be it enacted by the authority aforesaid, That the inhabitants now dwelling or inhabiting or that hereafter shall dwell or inhabit within the town of Godalming within the county of Surrey, within the limits of the watch of the said town, may use and exercise such arts mysteries and occupations, and take and use apprentices and servants in such manner and form as the inhabitants within market-towns by this statute may lawfully do.

XLV. Provided always, and be it enacted by the authority aforesaid, That all manner americiaments fines issues and forfeitures which shall arise grow or come by reason of any offences or defaults mentioned in this Act or any branch thereof within any city or town corporate, shall be levied gathered and received by such person or persons of the same city or town corporate as shall be appointed by the mayor or other head officers mentioned in this said Act, to the use and maintenance of the same city or town corporate, in such case and condition as any manner

No. I.

5 Eliz. c. 4.

He that is bound Apprentice within the Age of xxi.

Cro. Car. 179.

A Proviso for the Inhabitants of Godalming, in Surrey.

Who shall have the Forfeiture in Cities and Towns Corporate.

(14) This Clause seems sufficiently explicit with respect to the obligatory force of contracts of apprenticeship entered into by infants, conformably to the regulations of the Statute; but in the case *ex parte Davies*, 5 T. R. 715. a woman, who had been bound for seven years, having attained the age of twenty-one, was discharged on Habeas Corpus; and Lord Kenyon said, "Every indenture of an infant is voidable at his election. But when the binding is under the authority of an Act of Parliament, that takes away the power of electing to vacate the indentures. But I know of no Act which prohibits the party, in a case like the present, to make such election upon her coming of age. The Apprentice ought not to have been bound longer than till she was twenty-one, and we ought now to discharge her."—In *ex parte Gill*, 7 East. 376. an apprentice having applied for a Habeas Corpus, after being committed under the authority of 20 G. II. c. 19, notwithstanding he objected that the indenture was not obligatory after he came of age, the Court held, that he must be remanded; and that, however the circumstances laid before the Court by affidavit might, if well founded, be matter of defence against the charge before the Magistrates, they could not be then examined by the Court; that if the defence had been made before the Magistrates, and they had disregarded it, the party had

a remedy against them; but that the Court had no authority to discharge the Apprentice from his indentures: and that there was a mistake in that respect in the report of *Davis's* case; the judgment of the Court there being, that "the Apprentice should be discharged out of the custody of her master, in whose custody she was when brought up before the Court." Upon revising these authorities, I cannot help thinking that it would have been more accurate to have said, that *Davis's* case was hastily and improperly decided, than that it was erroneously reported; as there is no trace of any other custody than that controul which a master regularly has over his Apprentice; and the whole tenor of the judgment applies to the power of rescinding the contract, and not to any complaint of improper confinement and coercion. The power under Statute 43 Eliz. c. 2. (see the next Number of this Class) of binding poor apprentices, is with respect to women confined to 21, or marriage; but so far is there from being any thing in the Statute 5 Eliz. with respect to Apprentices in general, to indicate such restriction, that by Section 25 it is provided, that the Apprentices there mentioned shall be bound until the age of 21 years at the least, or 24 years, as the parties can agree; and by Section 26, the party is to be bound to the age of 24 years at least.

No. I.

5 Eliz. c. 4.

Retainings and
Covenants made
before this Sta-
tute.

A Remedy for
those Servants
which depart
from their
Masters, and do
flee into other
Shires.

High Constables
may keep
Statute Ses-
sions.

other americiaments fines issues or forfeitures have been used to be used to be levied and employed within the same city or town corporate, by reason of any grant or charter from the Queen's Majesty that now is or of any her Grace's noble progenitors, made and granted to the same city borough or town corporate; any thing or clause before-mentioned and expressed in this Act to the contrary notwithstanding.

XLVI. Provided always, that this Act or any thing therein contained shall not extend to any lawful retainings or covenants had or made before the making of this Act, but that all and every the parties to such retainings or covenants shall and may have the same and like advantages of such retainings and covenants and of the statutes heretofore in that behalf provided as if this Act had never been had or made; any clause of repeal or other matter whatsoever in this Act to the contrary in any wise notwithstanding.

XLVII. And be it further enacted by the authority aforesaid, That if any servant or apprentice of husbandry or of any art science or occupation aforesaid unlawfully depart or flee into any other shire, that it shall be lawful to the said justices of peace and to the said mayors bailiffs and other head officers of cities and towns corporate for the time being justices of peace there, to make and grant writs of *capias*, so many and such as shall be needful, to be directed to the sheriffs of the counties or to other head officers of the places whither such servants or apprentices shall so depart or flee, to take their bodies returnable before them at what time shall please them; so that if they come by such process that they may be put in prison till they shall find sufficient surety well and honestly to serve their masters mistresses or dames from whom they so departed or fled, according to the order of the law. (15)

XLVIII. Provided always, That it shall be lawful to the high constables of hundreds in every shire to hold keep and continue petty-sessions otherwise called statute-sessions within the limits of their authorities, in all shires wherein such sessions have been used to be kept in such manner and form as heretofore hath been used and accustomed, so as nothing be by them done therein contrary or repugnant to this present Act. (16)

(15) Vide 16 East. 13.

(16) It was omitted to notice at the proper place, with reference to Section VI. and XIV., that the power of rating wages is held to give, by implication, a power of recovering them before Justices of Peace. *R. v. Gouche*, 2 Salk. 441. But this power, as well as the power of discharge,

(Sect. VI.) is confined to the case of servants in husbandry; and it must appear on the face of the order that it was a service in husbandry. *R. v. Welling*, 1 Str. 8.—*R. v. Clegg*, 1 Str. 475.—*R. v. Hulcot*, 6 T. R. 583.—As to the power of discharging the servant for insanity, see the last mentioned case of *R. v. Hulcot*.

3p. [No. II.] 43 Eliz. c. 2.—An Act for the Relief of the Poor. (1)

43 Eliz. c. 2.
Binding of
Children Ap-
prentices.

1 Jac. 1. c. 25.
3 Car. 1. c. 4.

V. **A**ND be it further enacted, That it shall be lawful for the said churchwardens and overseers or the greater part of them, by the assent of any two justices of the peace aforesaid, to bind any such children as aforesaid to be apprentices where they shall see convenient till such man-child shall come to the age of four and twenty years and such woman-child to the age of one and twenty years or the time of her marriage; the same to be as effectual to all purposes as if such child were of full age and by indenture of covenant bound him or herself.

(1) See this Act at large with Notes, post title Poor.

[No. III.] 7 James I. c. 3.—An Act for the Continuing and better Maintenance of Husbandry and other

Manual Occupations, by the true Employment of Monies given and to be given for the Binding out of Apprentices. No. III.
7 James I.
c. 3.

P.

[No. IV.] 8 & 9 William III. c. 30.—An Act for supplying some Defects in the Laws for the Relief of the Poor of this Kingdom. (1)

‘ V. **AND** whereas by an Act made in the three and fortieth year of the reign of Queen Elizabeth, intituled *An Act for the Relief of the Poor*, it is amongst other things enacted, That it shall be lawful for the churchwardens and overseers of the poor of any parish or the greater part of them, by the assent of two justices of the peace whereof one to be of the *quorum*, to bind poor children apprentices where they shall see convenient; but there being doubts whether the persons to whom such children are to be bound are compellable to receive such children as apprentices, that law hath failed of its due execution:’ Be it therefore enacted and declared by the authority aforesaid That where any poor children shall be appointed to be bound apprentices pursuant to the said Act, the person or persons to whom they are so appointed to be bound shall receive and provide for them according to the indenture signed and confirmed by two justices of the peace and also execute the other part of the said indentures; and if he or she shall refuse so to do, oath being thereof made by one of the churchwardens or overseers of the poor before any two of the justices of the peace for that county liberty or riding, he or she for every such offence shall forfeit the sum of ten pounds to be levied by distress and sale of the goods of any such offender by warrant under the hands and seals of the said justice, the same to be applied to the use of the poor of that parish or place where such offence was committed; saving always to the person to whom any poor child shall be appointed to be bound an apprentice as aforesaid, if he or she shall think themselves aggrieved thereby, his or her appeal to the next general or quarter sessions of the peace for that county or riding, whose order therein shall be final and conclude all parties.

Poor Children bound Apprentices pursuant to the Act 43 Eliz. c. 2. those to whom they are bound to provide for them according to the Indenture signed by the Justices, &c. Penalty on Offender. Persons to whom young Children are bound being aggrieved may appeal to the Justices.

(1) See this Act at large, with Notes post title POOR, Vol. 8.

[No. V.] 2 & 3 Anne, c. 6.*—An Act for the Increase of Seamen, and better Encouragement of Navigation, and Security of the Coal Trade.

[* This Act contains several regulations with respect to binding Apprentices to the sea service, which, on account of the limited nature of the subject, it is not thought material to insert. They are fully stated in Burn, title Apprentices.]

[No. VI.] 20 George II. c. 19.—An Act for the better Adjusting and more easy Recovery of the Wages of certain Servants; and for the better Regulation of such Servants, and of certain Apprentices.

‘ **WHEREAS** the laws now in being for the better Regulation of Servants, and for the Payment of Wages to them, and to Artificers and Handicraftsmen and Labourers, are insufficient and defective:’ For remedy whereof, Be it enacted by the King’s most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That from and after the twenty-fifth day of March which will be in the year of our Lord one thousand seven hundred and forty-seven, all complaints differences and disputes which shall happen

20 Geo. II. c. 19.
5 Eliz. c. 4.
1 Jac. 1. c. 6.
Differences to be determined by a Justice of Peace.

No. VI.
20 Geo. II.
c. 19.

Justices to examine Servants, &c. upon Oath, and make order for payment of Wages due, if under a certain Sum.

On Non-payment to be levied by Distress and Sale.

Justices to hear Master's Complaints on Oath;

and to punish the Offender.

and arise between masters or mistresses and servants in husbandry who shall be hired for one year or longer, or which shall happen or arise between masters and mistresses and artificers handicraftsmen miners colliers keelmen pitmen glassmen potters and other labourers (1) employed for any certain time or in any other manner shall be heard and determined by one or more justice or justices of the peace of the county riding city liberty town corporate or place where such master or mistress shall inhabit, although no rate or assessment of wages has been made that year by the justices of the peace of the shire riding or liberty, or by the mayor bailiffs or other head officer where such complaints shall be made, or where such differences or disputes shall arise; which said justice or justices is and are hereby empowered to examine upon oath any such servant artificer handicraftsman miner collier keelman pitman glassman potter or other labourer, or any other witness or witnesses touching any such complaint difference or dispute, and to make such order for payment of so much wages to such servant artificer handicraftsman miner collier keelman pitman glassman potter or other labourer, as to such justice or justices shall seem just and reasonable, provided that the sum in question do not exceed ten pounds with regard to any servant, nor five pounds with regard to any artificer handicraftsman miner collier keelman pitman glassman potter or labourer; and in case of refusal or nonpayment of any sums so ordered by the space of one and twenty days next after such determination, such justice and justices shall and may issue forth his and their warrant to levy the same by distress and sale of the goods and chattels of such master or mistress or person employing such artificer handicraftsman miner collier keelman pitman glassman potter or other labourer, rendering the overplus to the owners, after payment of the charges of such distress and sale. (2)

II. And be it further enacted by the authority aforesaid, That it shall and may be lawful to and for such justice or justices upon application or complaint made upon oath by any master mistress or employer, (3) against any such servant artificer handicraftsman miner collier keelman pitman glassman potter or labourer, touching or concerning any misdemeanor miscarriage or ill-behaviour in such his or her service or employment (which oath such justice or justices is and are hereby empowered to administer) to hear examine and determine the same; and to punish the offender by (4) commitment to the House of Correction, there to remain

(1) This provision extends to all labourers in general, as well as those in the particular occupations mentioned; and includes the case of a person sinking a well, to be paid by the piece. See *Lowther v. the Earl of Radnor*. 8 East. 113. Some objections having been made in consequence of provisions in subsequent Acts, appearing to interfere with this construction, Lord Ellenborough said, "The true answer seems to be, that at the time of passing one Act the Legislature has not always had every other Act containing provisions bearing upon the same subject, brought under its consideration.

(2) Replevin cannot be maintained for goods distrained by virtue of a warrant from a Magistrate who has competent jurisdiction under the statute of labourers, (20 Geo. II. c. 19. s. 1.) to issue a warrant of distress and sale on refusal of the party to pay, nor can the question of a Magistrate's jurisdiction be tried in such an action; and therefore it cannot be pleaded in bar to a recognisance made under such warrant, that the labourer did not duly make oath before the Magistrate that the sum claimed was due to him for wages, nor that such sum was not due. *Wilson v. Weller*. 3 Moore, 294, s. c. Taunt. & Brod. 57.

(3) The employer is the person on whose

service the employment is, and not the bailiff, though the contract of hiring may have been personally with the bailiff. *R. v. Hoseason* 14. East. 605.

(4) Under the Stat. 20 Geo. II. c. 19. s. 2. for regulating servants in husbandry artificers and other labourers there mentioned, if a justice of the peace, upon a complaint made to him of the misconduct of such persons in their employments, sentence the offender to be committed to the house of correction for a time not exceeding one calendar month, he must if he intend to proceed upon that statute also sentence him there to be corrected and held to hard labour; but the statute gives the justice an option to punish the offender in that manner or otherwise by abating part of his wages or by discharging him from his employment. And the meaning the terms "there to be corrected," is to be understood of a correction by whipping. But this latter punishment cannot be inflicted upon the like offender under the Stat. 6 Geo. III. c. 25. which enables the justice to commit the offenders to the house of correction for any time not exceeding three months nor less than one month; nor can the punishments inflicted by the two Acts be blended. *Rex v. Hoseason*, 14 E. R. 605.

and be corrected, (5) and held to hard labour for a reasonable time not exceeding one calendar month, or otherwise by abating some part of his or her wages, or by discharging such servant artificer handicraftsman miner collier keelman pitman glassman potter or labourer, from his her or their service or employment: And in like manner also it shall and may be lawful to and for such justice or justices, upon any complaint or application upon oath by any such servant artificer handicraftsman miner collier keelman pitman glassman potter or other labourer, against such master mistress or employer, touching or concerning any misuse refusal of necessary provision cruelty or other ill-treatment of to or towards such servant artificer handicraftsman miner collier keelman pitman glassman potter or other labourer, and to summon such master mistress or employer to appear before such justice or justices at a reasonable time to be prefixed in such summons; and such justice or justices shall and may examine into the matter of such complaint, whether such master mistress or employer shall appear or not; proof being made upon oath of his or her being duly summoned; and upon proof thereof made upon oath to his or their satisfaction, to discharge such servant artificer handicraftsman miner collier keelman pitman glassman potter or other labourer, of and from his said service and employment; which discharge shall be given under the hand and seal or hands and seals of such justice or justices *gratis*. (6)

III. And be it further enacted by the authority aforesaid, That it shall and may be lawful to and for any two or more such justices, upon any complaint or application by any apprentice put out by the parish, or any other apprentice upon whose binding out no larger a sum than five pounds of lawful *British* money was paid, touching or concerning any misuse refusal of necessary provision cruelty or other ill-treatment of or toward such apprentice by his or her master or mistress, to summon such master or mistress to appear before such justices at a reasonable time to be named in such summons; and such justices shall and may examine into the matter of such complaint; and upon proof thereof made upon oath to their satisfaction (whether the master or mistress be present or not, if service of the summons be also upon oath proved) the said justices may discharge such apprentice by warrant or certificate under their hands and seals; for which warrant or certificate no fees shall be paid.

IV. And be it further enacted by the authority aforesaid, That it shall and may be lawful to and for such justices, upon application or complaint made upon oath by any master or mistress (7) against any such apprentice, touching or concerning any misdemeanor miscarriage or ill-behaviour in such his or her service (which oath such justices are hereby empowered to administer), to hear examine and determine the same and to punish the offender by commitment to the House of Correction, there to remain and be corrected and held to hard labour for a reasonable time

No. VI.

20 Geo. II.
c. 19.Justices to hear
Servants' Com-
plaints on Oath,and to summon
the Master, &c.and upon satis-
factory Proof to
discharge the
Servant.Justices on
Complaint of
Apprentices,to summon the
Master, &c.;and upon satis-
factory Proof,
to discharge the
Apprentice.Justices upon
Complaint of
Masters against
Apprentices,
and Proof upon
Oath, to punish
the Offender by
Commitment,
&c.

(5) *Correction* means corporal punishment by whipping, and is a necessary part of the judgment. A commitment to the House of Correction, there to be corrected, imports correction by whipping; but under the Statute 6 Geo. III. c. 25. (the next number) which authorises a commitment for not more than three months or less than one, bodily correction is no part of the sentence. *Rex v. Housason*, ub. *supr.*—The commitment must state that the party was convicted, not merely that he was charged. *R. v. Cooper*, 6, T. R. 509.

(6) Where a servant under a yearly hiring served two months and was then committed and imprisoned under the Stat. 20 Geo. II. c. 19. for misbehaviour to his master, and at the instance of his master, and after nine days' imprisonment, was upon the application of his master discharged and returned

to him and served him as before, and no mention was made of the terms on which he was to serve, and he served in the whole from the time of the hiring for about nineteen months: Held: That the commitment and imprisonment were not a dissolution of the service, as to prevent a settlement; and therefore he gained a settlement by such hiring and service although he was married when he returned to his master, and received no wages for the time he was in custody. *Rex v. Barton-upon-Irwell*. (Julial.) 2 M. & S. 329.

(7) The application must be made by the master or mistress, but it may be verified by the oath of any other person who knows the fact complained of. *Finlay v. Joule*, 12 East. 242.

No. VI.

90 Geo. II.
c. 19.Persons ag-
grieved may ap-
peal.
Exception.Costs not to
exceed 40s.

No Certiorari.

Stannaries not
included.

not exceeding one calendar month, or otherwise by discharging such apprentice in manner and form before mentioned. (8)

V. Provided nevertheless, That if any person or persons shall think himself herself or themselves aggrieved by such determination order or warrant of such justice or justices as aforesaid (save and except any order of commitment (9) he she or they may appeal to the next general quarter sessions of the peace to be held for the county riding liberty city town corporate or place where such determination or order shall be made; which said next general quarter sessions is hereby empowered to hear and finally determine the same, and to give and award such costs to any of the respective persons appellant or respondent as the said sessions shall judge reasonable, not exceeding forty shillings; the same to be levied by distress and sale in manner before mentioned.

VI. Provided also, and be it further enacted by the authority aforesaid, That no writ of *certiorari* or other process shall issue or be issuable to remove any proceedings whatsoever had in pursuance of this Act into any of his Majesty's courts of record at *Westminster*.

VII. Provided always, That nothing in this Act contained shall extend to the stannaries in the counties of *Devon* and *Cornwall*.

(8) This provision is not repealed by Statute 6 Geo. III. c. 25. (the next number), empowering justices to oblige an apprentice to serve the time of absence after the expiration of his term. *Gary v. Cookson*, 16 East. 12.

(9) There is no appeal against a conviction and order of commitment in execution; which, under this Act, are one and the same thing. *R. v. Justices of Staffordshire*, 12 East. 572.

See 5 Eliz. c. 4. [No. VII.] 6 George III. c. 25.—An Act for better regulating Apprentices, and Persons working under Contract. (1)

6 Geo. III.
c. 25.Justices empow-
ered to oblige
Apprentices to
serve for such
Term as he
shall absent, &c.

‘ WHEREAS persons employed in several manufactories of this kingdom frequently take apprentices who are very young and for several years of their apprenticeships are rather a burthen than otherwise to their masters: And whereas it frequently happens that such apprentices when they might be expected to be useful to their masters absent themselves from their service: And whereas the laws in being are not sufficient to prevent these inconveniences: For remedy whereof, may it please your Majesty that it may be enacted; and be it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That from and after the twenty-fourth day of *June*, one thousand seven hundred and sixty-six, if any apprentice shall absent himself from his master's service before the term of his apprenticeship shall be expired, every such apprentice shall at any time or times thereafter whenever he shall be found be compelled to serve his said master for so long a time as he shall have so absented himself from such service, unless he shall make satisfaction to his master for the loss he shall have sustained by his absence from his service; and so from time to time as often as any such apprentice shall without leave of his master absent himself from his service before the term of his contract shall be fulfilled: And in case any such apprentice shall refuse to serve as hereby required or to make such satisfaction to his master, such master may complain upon oath to any justice of the peace of the county or place where he shall reside, which oath such justice is hereby empowered to administer and to issue a warrant under his hand and seal for apprehending any such apprentice; and such justice upon hearing the complaint may determine what satisfaction shall be made to such master by such apprentice; and in case such apprentice shall not give security to make such satisfaction according to such determination, it shall and may be

(1) See the Notes to the preceding Number.

lawful for such justice to commit every such apprentice to the house of correction for any time not exceeding three months.

II. Provided always, That nothing in this Act contained shall extend to any apprentice whose master shall have received with such apprentice the sum of ten pounds.*

III. Provided also, That no apprentice shall be compelled to serve for any time or term or to make any satisfaction to any master after the expiration of seven years next after the end of the term for which such apprentice shall have contracted to serve; any thing herein contained to the contrary notwithstanding.

IV. And whereas it frequently happens that artificers callicoe printers handicraftsmen miners colliers keelmen pitmen glassmen potters labourers and others who contract with persons for certain terms do leave their respective services before the terms of their contracts are fulfilled, to the great disappointment and loss of the persons with whom they so contract; For remedy whereof, he it further enacted by the authority aforesaid, That from and after the said twenty-fourth day of June one thousand seven hundred and sixty-six, if any artificer callicoe printer handicraftsman miner collier keelman pitman glassman potter labourer or other person shall contract with any person whomsoever for any time or times whatsoever and shall absent himself from his service before the term of his contract shall be compleated or be guilty of any other misdemeanour; that then and in every such case it shall and may be lawful for any justice of the peace of the county or place where any such artificer callicoe printer handicraftsman miner collier keelman pitman glassman potter labourer or other person shall be found, and such justice is hereby authorized and empowered upon complaint thereof made upon oath to him by the person with whom such artificer callicoe printer handicraftsman miner collier keelman pitman glassman potter labourer or other person shall have so contracted or by his or her steward or agent, which oath such justice is hereby empowered to administer to issue his warrant for the apprehending every such artificer callicoe printer handicraftsman miner collier keelman pitman glassman potter labourer or other person and to examine into the nature of the complaint; and if it shall appear to such justice that any such artificer callicoe printer handicraftsman miner collier keelman pitman glassman potter labourer or other person shall not have fulfilled such contract or hath been guilty of any misdemeanour, it shall and may be lawful for such justice to commit every such person to the house of correction for the county or place where such justices shall reside for any time not exceeding three months nor less than one month.

V. Provided always, That if any person shall think himself aggrieved by such determination order or warrant of any justice of the peace as aforesaid except an order of commitment, every such person may appeal to the next general quarter sessions of the peace to be held for the county or place where such determination or order shall be made; such person giving six days' notice of his intention of bringing such appeal, and of the cause and matter thereof, to such justice of the peace and the parties concerned, and entering into a recognizance within three days after such notice before some justice of the peace for such county or place, with sufficient surety, conditioned to try such appeal at and abide the order or judgment of and pay such costs as shall be awarded by the justices at such quarter sessions; which said justices at their said sessions, upon due proof of such notice being given, and of entering into such recognizances as aforesaid, shall and are hereby directed to proceed in hear and determine the causes and matters of all such appeals; and shall give such relief and costs to the parties appealing or appealed against, as they in their discretion shall judge proper and reasonable; and their judgments and orders therein shall be final and conclusive to all parties concerned.

VI. Provided also, That nothing in this Act contained shall extend to the Stannaries in the counties of Devon and Cornwall, or to impeach or lessen the jurisdiction of the Chamberlain of the city of London, or of any other court within the said city, touching apprentices.

No. VII.

6 Geo. III.
c. 25.

* except as to Apprentices paying 10l. Fee; Or where seven Years shall have elapsed.

See 20 Geo. II.
c. 19.

32 Geo. II.
c. 11. f. 3.

Justices empowered to grant Warrants against Artificers, &c. not fulfilling their Contract, &c.

Appeal.

Stannaries and London.

No. VIII.
18 Geo. III.
c. 47.

[No. VIII.] 18 George III. c. 47.—An Act to amend such Part of an Act, made in the Forty-third Year of the Reign of Queen *Elizabeth*, intituled, *An Act for the Relief of the Poor*, as relates to the binding of Parish Apprentices.

18 Geo. III.
c. 47.
43 Eliz. c. 2.

‘WHEREAS in and by an Act made in the forty-third year of the reign of Queen *Elizabeth* (intituled *An Act for the Relief of the Poor*), it was enacted, That it should be lawful for the churchwardens and overseers therein mentioned or the greater part of them, by the assent of any two justices of the peace, to bind the children of all such parents who shall not by the said churchwardens and overseers or the greater part of them be thought able to keep and maintain their children to be apprentices where they shall see convenient, till such man-child shall come to the age of four and twenty years and such woman-child to the age of one and twenty years or day of marriage: And whereas it has been found by experience that the said term respecting men children is longer than is necessary, and that if such man-child was bound to be an apprentice only till he came to the age of one and twenty years, all the benefits intended by the said Act would be preserved, the hardships brought on such parish apprentices by the length of their apprenticeship would be avoided, and the good harmony between master and apprentice would be better maintained;’ may it therefore please your Majesty that it may be enacted; and be it enacted by the King’s most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That from and after the passing of this Act when any man-child shall be bound to be an apprentice by virtue of and under the authority of the said Act, made in the forty-third year of Queen *Elizabeth*, such child shall be bound to be an apprentice for no longer term than till such child shall come to the age of twenty-one years. (1)

No Child to
continue an Ap-
prentice after
the Age of 21.

(1) A parish apprentice was before the passing of Stat. 18 Geo. III. c. 47, bound till twenty-four and served till nearly attaining twenty-one, when his master being about to leave the parish and no longer wanting his service told him that he might leave him and go where he liked and shift for himself, but if he could not provide for himself he might return to him; upon which he quitted,

and when he was about four months past twenty-one bound himself by indenture as apprentice to another master for three years, and served with him the three years: Held: that he did not acquire a settlement by service under the second indenture. *Rex v. Bow* (Julia.) 4 M. & S. 383.

[No. IX.] 20 George III. c. 36.—An Act for obviating Doubts, touching the binding and receiving of poor Children Apprentices, in pursuance of several Acts of Parliament made for the Relief of the Poor within particular incorporated Hundreds or Districts; and for ascertaining the Settlement of Bastard Children born in the Houses of Industry within such Hundreds or Districts.

20 Geo. III.
c. 36.

‘WHEREAS several Acts of Parliament have of late years been made and passed for the better relief and employment of the poor in particular incorporated hundreds or districts within that part of *Great Britain* called *England*, whereby power is given to bind poor children apprentices under certain restrictions therein mentioned: And whereas doubts have arisen whether persons are compellable to receive and provide for such poor children as shall be appointed to be bound apprentices to them in pursuance of the said Acts:’ Be it therefore enacted by the King’s most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Par-

liament assembled, and by the authority of the same, That from and after the twenty-fourth day of *June* one thousand seven hundred and eighty, the respective persons to whom any poor children shall be appointed to be bound apprentices in pursuance of any Act or Acts of Parliament made and passed for the better relief and employment of the poor in any particular incorporated hundreds or districts within that part of *Great Britain* called *England*, shall and they are hereby required to receive and provide for such children according to the indentures to be executed by the directors and acting guardians of the poor for such respective hundreds or districts for the binding of such poor children in like manner as persons are now obliged by the laws in being to receive and provide for poor children appointed to be bound apprentices by churchwardens and overseers of the poor with the assent of two justices of the peace, and also to execute the counterpart of such indentures respectively: And if any person to whom any poor child shall be appointed to be bound apprentice in pursuance of any such Act of Parliament as aforesaid shall refuse or neglect to receive and provide for such poor child or to execute the counterpart of the indenture for binding such child as aforesaid, every person so refusing or neglecting, upon proof of such refusal or neglect being made by the oath of one of the directors or acting guardians or of some other credible witness before any two justices of the peace acting in and for the county liberty or place within which the incorporated hundred or district to which such child belongs shall be situate, shall forfeit and pay to the directors and acting guardians of the poor for such incorporated hundred or district or to their treasurer or appointee, to be applied to the relief of the poor within the same, the sum of ten pounds; such penalty or forfeiture to be levied by distress and sale of the goods of the person refusing or neglecting as aforesaid, by warrant under the hands and seals of such justices; saving always to the person to whom any poor child shall be so appointed to be bound an apprentice, his or her appeal to the next general or quarter session of the peace for that county liberty or place, whose order therein shall be final.

II. Provided always, That nothing in this Act contained shall be construed to compel any person to take any such poor child apprentice as aforesaid, unless such person shall be an inhabitant and occupier of lands tenements or hereditaments in the parish to which such child belongs; and that all bastard children born or to be born in the house of industry within any such incorporated hundred or district shall be deemed to belong to the parish or place where the mother of such bastard child was legally settled. (1)

(1) It is not necessary that the master should actually reside in the parish, if he be an occupier there it is sufficient, for inhabitant and occupier are for this purpose synonymous terms. *Rex v. Tunsted and Happing Hundreds*, 3 T. R. 523.

[No. X.] 32 George III. c. 57.—An Act for the further Regulation of Parish Apprentices.

WHEREAS by an Act passed in the forty-third year of the reign of Queen Elizabeth, intituled *An Act for the Relief of the Poor*, it is (amongst other things) enacted, That it shall be lawful for the churchwardens or overseers of the poor of any parish or the greater part of them, by the assent of two justices of the peace, to bind any children whose parents they shall judge to be not able to keep and maintain such children to be apprentices where they shall see convenient till such man-child shall come to the age of twenty-four years and such woman-child to the age of twenty-one years or the time of her marriage, the same to be as effectual to all purposes as if such child were of full age and by indenture of covenant bound him or herself: And whereas by an Act made in the eighth and ninth years of the reign of King William, intituled *An Act for supplying some Defects in the Laws*

No. IX.

20 Geo. III.
c. 36.

All Persons to whom any Children shall be appointed to be bound, obliged to provide for them, &c.

Appeal.

32 Geo. III.
c. 57.Preamble.
43 Eliz. c. 2.8 and 9 Gul. III.
c. 30. and

No. X.
32 Geo. III.
c. 57.

18 Geo. III.
c. 47, recited.

Covenants for
Maintenance of
Parish Appren-
tices, with
whom no more
than 5*l*. shall be
given, to conti-
nue in force no
longer than
Three Months
after the Death
of the Master,
&c.

for the Relief of the Poor of this Kingdom, after reciting that there being doubts whether the persons to whom such children were to be bound under and by virtue of the said statute of the forty-third year of the reign of Queen Elizabeth were compellable to receive such children as apprentices, that law hath failed of its due execution, it was therefore enacted, That where any poor children should be appointed to be bound apprentices pursuant to the said Act of Queen Elizabeth, the persons to whom they are so appointed to be bound apprentices shall receive and provide for them according to the indenture signed and confirmed by the two justices of the peace, and also execute the other part of the said indentures under the penalty in case of refusal of the forfeiture of ten pounds for every such offence, to be levied of the goods of the offender in the manner mentioned in the said Act: And whereas by an Act passed in the eighteenth year of the reign of his present Majesty, intituled *An Act to amend such Part of an Act made in the forty-third Year of the Reign of Queen Elizabeth, intituled "An Act for the Relief of the Poor," as relates to the binding of Parish Apprentices*, it was enacted, That when any man-child should be bound to be an apprentice by virtue of the said Act made in the forty-third year of the reign of Queen Elizabeth, such child shall be bound to be an apprentice for no longer term than till he shall come to the age of twenty-one years: And whereas in such indentures of apprenticeship it hath been usual to insert several agreements and covenants to be done and performed by the several parties thereto; (that is to say) an agreement on the part of the apprentice, that he will faithfully serve his master during the term of such apprenticeship; and also several covenants on the part of the master for himself his executors and administrators, that he the said master will teach or cause to be taught such apprentice in the business of husbandry or in the craft mystery or occupation which such master then useth, as the case may be; and that such master shall also during the term of such apprenticeship find and allow unto such apprentice sufficient meat drink apparel and all other things needful for an apprentice during such term: And whereas, in the event of the death of the master during the term of such apprenticeship the agreement for service on the part of the apprentice is at an end, but the covenant for maintenance on the part of the master still continues in force as far as the master's assets will extend, or doubts have arisen with respect thereto, and in consequence thereof such apprentices do frequently on the death of their master leave their master's house and after living in idleness return again and become a burden on their master's effects and so from time to time as they think proper, which is attended with great inconvenience and hardship to the family and personal representatives of such master and is at the same time an inducement to such apprentice to continue in a disorderly and idle course of life: And whereas the several powers given to justices of the peace for the better ordering of parish apprentices by the several Acts of Parliament made for that purpose do cease and determine on the death of the master, for which a remedy ought to be provided: And whereas several other regulations are necessary to be made respecting parish apprentices: Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That from and after the first day of July one thousand seven hundred and ninety-two, in case of the death of any master or mistress of any parish apprentice during the term of such apprenticeship, upon the binding out of which apprentice no larger sum than five pounds has been or shall be paid, such covenant as is before mentioned for the maintenance of such apprentice inserted in the indenture of apprenticeship by which such apprentice shall have been or shall be bound, shall not continue and be in force for and during any longer time than for three calendar months next after the death of such master or mistress, and that during such three calendar months such apprentice shall continue to live with and serve as an apprentice the

executors and administrators of such master and mistress some or one of them, or such person or persons as such executors or administrators some or one of them shall appoint; and the master or mistress whom such apprentice shall accordingly serve during the said three calendar months, and also such apprentice shall during that time be subject and liable to all the laws which are or shall be in force for the better government and regulation of masters and parish apprentices; and that in all such parish indentures of apprenticeship as aforesaid which shall be made from and after the first day of *July* one thousand seven hundred and ninety-two, there shall be annexed to the covenant in such indentures to be entered into on the part of the master or mistress of such apprentice for such maintenance as aforesaid a proviso declaring that such covenant shall not be made to continue and be in force for any longer time than for three calendar months next after the death of such master or mistress in case such master or mistress shall die during the term of such apprenticeship; which proviso may be in the form or to the effect mentioned in the schedule hereunto annexed marked with the letter A; and in case such proviso shall happen to be omitted in any such indenture, the covenant therein contained on the part of the master for the maintenance of the apprentice shall be deemed and taken to continue and be in force for no longer time than for three calendar months next after the death of such master or mistress, in case such master or mistress shall die during the term of such apprenticeship; any thing in any such covenant to the contrary notwithstanding.

II. 'And whereas it is just and reasonable, that such apprentice as aforesaid, in case of his master's death during his apprenticeship, should be obliged during the term of his apprenticeship to make some satisfaction by his labour to the family or representatives of his deceased master, for the advantage he has received from his apprenticeship in his childhood, when his services could not be equal to the expences of his maintenance;' Be it enacted, That within such three calendar months after the death of such master or mistress, it shall and may be lawful for any two justices of the peace of the county city town riding division or place where such master or mistress shall have died, on application made to them by the widow of such master, or by the husband of such mistress, or by any son or daughter brother or sister, or by any executor or executrix administrator or administratrix of such master or mistress, by indorsement on any such indenture of apprenticeship, or the counterpart thereof, or by any other instrument in writing, (which indorsement or instrument may be in the forms or to the effect mentioned in the schedule hereunto annexed, marked with the letters B. and C.,) to order and direct that such apprentice shall serve as an apprentice any one of such persons so making such application as aforesaid (such person having lived with, and having been part of the family of such master or mistress at the time of his or her death) as the said justices shall in their discretion think fit, for and during the residue of the term mentioned in such indentures of apprenticeship; and the person obtaining such order shall declare his acceptance of such apprentice, by subscribing his or her name to such order; and that from and after such order shall be made, the executors and administrators and the personal assets, estate and effects of the master or mistress so dying as aforesaid, shall be released and discharged of and from any promise or covenant whatsoever, contained in any such indenture of apprenticeship, on the part of such master or mistress, his or her executors or administrators to be done and performed; and the person obtaining the same shall be, and be deemed and taken to be, the master or mistress of such apprentice, in like manner as if such apprentice had been originally bound to such master or mistress; and that such last-mentioned master or mistress his or her executors and administrators, each and every of them, shall be held and bound by the several promises and covenants contained in any such indenture of apprenticeship on the part of the master or mistress therein named his or her executors or administrators, to be done and performed in like manner as if such master or mistress obtaining such order as aforesaid had duly executed the counterpart of such

No. X.
32 Geo. III.
c. 57.

Proviso to that Effect to be annexed to Covenant, but if omitted, the Covenant to continue no longer in force.

Within Three Months after the Death of a Master, two Justices may order Apprentices to serve the Residue of their Terms with Persons of the Description herein specified, on Application &c.

No. X.
32 Geo. III.
c. 57.

Provisions to take place on the Death of the original Master to extend to subsequent ones.

If no Application be made, or the Justices should not think fit that the Apprenticeship should be continued, it shall be at an end.

Act to extend to such Parish Apprentices only as shall be living with the Master.

Justices may order the necessary Sums for Maintenance and Cloathing of Apprentices to be levied by Distress.

indenture; and that such master or mistress and apprentice shall be subject and liable to the several penalties provisions and regulations which shall then be in force for the better government and good order of master and parish apprentices; and that all justices of the peace shall have the like powers and authority with respect thereto, as they shall then have by any Act or Acts of Parliament relating to parish apprentices.

III. And be it further enacted, That all and singular the regulations and provisions herein-before made, and directed to take place on the death of the original master or mistress, shall be deemed and taken to relate to the like event of the death of any such subsequent master or mistress, and to their several relations and representatives before enumerated, from time to time as often as the case shall happen, during the continuance of the term mentioned in any such indenture of apprenticeship.

IV. And be it further enacted, That in case no such application shall be made as aforesaid within three calendar months next after the death of such master or mistress, or in case such two justices to whom any such application as aforesaid shall have been made, shall not think fit that such apprenticeship should be continued, then the said apprenticeship shall be determined, and the indenture of apprenticeship and covenants therein contained shall be at an end, in like manner as they would have been at the expiration of the term therein mentioned.

V. Provided always, and be it enacted, That nothing herein-before contained shall extend or be construed to extend to any parish apprentice, but to such only as shall be living with and shall make part of the family, or shall be in the actual employment of such original master or mistress, or of any subsequent master or mistress appointed under and by virtue of the several provisions of this Act at the time of the death of any such masters or mistresses respectively. (2)

VI. 'And whereas much difficulty and delay must necessarily happen in bringing an action upon the covenant for maintenance before mentioned contained in any such indenture of parish apprenticeship;' Be it enacted, That in case any such original master or mistress as aforesaid, or any master or mistress appointed under or by virtue of this Act, shall, during the term of any such parish apprenticeship as aforesaid, or if the executors or administrators of such masters or mistresses, any or either of them, having assets, shall during such three calendar months as aforesaid, refuse or neglect to maintain and provide for any such apprentice according to the terms of such covenant, it shall and may be lawful for any two justices of the peace of the county city town riding division or place in which the parish or place shall lie, to which such apprentice shall belong,

(2) Since the Statute 32 Geo. III. c. 57, for the regulation of parish apprentices; which recites "that on the death of the master during the term of such apprenticeship, the agreement for service on the part of the apprentice is at an end;" but the covenant for maintenance on the part of the master still continues as far as his assets extend, or doubts have arisen with respect thereto, &c. and then enacts that such covenants for maintenance of parish apprentices with whom no more than 5l. shall be given shall not continue in force longer than for three calendar months after the death of the master, &c. during which three months the apprentice shall continue to serve the executors, &c. or their appointee: and that within the three months two justices of the peace, on application of the widow or certain relatives of the master, may by indorsement on the indenture, &c. direct such apprentice to serve out his time with the applicant; such applicant having lived with and been part of the family of the master, &c. at his death; but otherwise that such apprenticeship shall be determined; and

then it provides (s. 5.) "that nothing therein-before contained shall extend to any parish apprentice, but to such only as shall be living with and make part of the family or be in the actual employment of the original master, &c. or of any subsequent master, &c. appointed under the provisions of the Act at the time of the death of such master, &c.: Held: that a parish apprentice who was not living, at the time of his mistress's death, with her appointee under the provisions of the Act, though living with her son by her individual consent, could not gain a settlement in another parish by serving another mistress with the consent of the son and assignee of the original mistress, given after the death of the original mistress; the contract of service being declared by the recital of the Act to be at an end upon the death of the original mistress, unless continued in the manner described in the second, third, and fourth sections of the Act; to which sections the proviso in the fifth section seems properly to apply. *Rex v. Sheephead.* (Julial.) 15 E. R. 59.

on complaint of such apprentice, or of the churchwardens and overseers of the poor of such parish or place, by warrant under their hands and seals to levy by distress and sale of the personal estate and effects or assets of such master or mistress respectively such sum or sums of money as shall be necessary for the maintenance and cloathing of such apprentice, and as shall also be necessary to reimburse to the churchwardens and overseers of the poor of such parish or place any sum or sums of money that shall have been reasonably expended by them for that purpose.

VII. 'And whereas it frequently happens that persons are compellable under and by virtue of the said Act of the ninth and tenth years of King William to take a greater number of parish apprentices than it is convenient for them to maintain or employ in their own families, and they are therefore forced to place out or assign over such apprentices to other persons; and it is proper that such assignment should be legally made under the inspection and controul of the magistrates as well for the benefit of the apprentice as that the original master may be discharged from his covenants in respect of such apprentice; and it is fit that the person to whom such assignment shall be made and also the apprentice should be made subject to the ordinary jurisdiction of justices of the peace with respect to masters and parish apprentices;' Be it enacted, That it shall and may be lawful for any master or mistress of any such parish apprentice as aforesaid, by indorsement on the indenture of apprenticeship or by other instrument in writing, by and with the consent of two justices of the peace of the county city town riding division or place where such master or mistress shall dwell, testified by such justices under their hands, to assign such apprentice to any person who is willing to take such apprentice for the residue of the term mentioned in such indenture of apprenticeship: Provided always, That such person to whom such apprentice is intended to be assigned shall at the same time by indorsement on the counterpart of such indenture or by writing under his or her hand, stating the said indenture of apprenticeship and the indorsement and consent aforesaid, declare his or her acceptance of such apprentice and acknowledge himself herself his or her executors and administrators to be bound by the agreements and covenants mentioned in the said indenture on the part of the master or mistress of such apprentice to be done and performed; which indorsement or instrument may be in the forms or to the effect mentioned in the schedule hereunto annexed, marked with the letters D. and E.; and in such case such apprentice shall be deemed and taken to be the apprentice of such subsequent master or mistress to whom such assignment shall be made to all intents and purposes whatsoever, and so from time to time as often as it shall be necessary or convenient for any such subsequent master or mistress to part with any such apprentice; and all justices of the peace shall have the like power and authority in the several cases last mentioned with respect as well to the subsequent master or mistress masters or mistresses as to the apprentice, as such justices shall then have by any law for the better regulation of parish apprentices.

Masters may assign over Apprentices with the Consent of two Justices, &c

VIII. 'And whereas no express provision has been made for the discharging of any such parish apprentice from a master or mistress who is become insolvent or is so far reduced in his or her circumstances as to be unable to employ or maintain such apprentice;' Be it enacted, That it shall and may be lawful for two justices of the peace of the county city town riding division or place where any such master or mistress shall live, on the application of such master or mistress requesting that any such apprentice may be discharged for the reasons aforesaid, to enquire into the matter of such allegations and to discharge any such apprentice from his apprenticeship in case the said two justices shall find such allegations to be true.

Justices may discharge Apprentices whose Masters cannot employ or maintain them.

IX. Provided always and be it enacted, That nothing herein-before contained shall extend or be construed to extend to the indenture made on the binding of any apprentice by the churchwardens or overseers of the poor of any parish or place or the major part of them, under and by virtue of the powers given to them by the statute made in the forty-third

Not to extend to Apprentices with whom more than Five Pounds shall be given.

No. X.
32 Geo. III.
c. 57.

No Indorsement on Parish Indentures to be liable to Stamp Duty, and no other Instruments to be charged higher than the Duty on Parish Indentures.

20 Geo. II.
c. 19. recited,

Justices discharging any Apprentice under the last recited Act may order his Clothes to be delivered up, and a sum not exceeding 10*l*. to be paid the Parish Officers for placing him out again, &c.

and may compel the Parish Officers to enter into Recognisance to prosecute Masters for ill Treatment of Apprentices, &c.

year of the reign of Queen *Elizabeth* in the case of any such binding where a larger sum than five pounds shall be given, but that such binding shall be subject and liable to the like rules and regulations as they would have been subject and liable to in case this Act had not been made.

X. Provided also, and be it enacted, That no indorsement or indorsements on any parish indentures of apprenticeship herein-before mentioned made or executed in pursuance of this Act shall be charged or chargeable with any duty imposed upon stamped vellum parchment and paper, but the same shall be and are hereby declared to be exempted therefrom, and that no other instrument or instruments in writing herein-before mentioned shall be charged or chargeable with any higher duty than with the duty imposed or to be imposed on parish indentures of apprenticeship.

XI. 'And whereas by an Act passed in the twentieth year of the reign of King *George* the Second, intituled, *An Act for the better adjusting and more easy Recovery of the Wages of certain Servants, and for the better Regulation of such Servants and of certain Apprentices*, it is enacted, That it shall and may be lawful to and for any two or more justices upon any complaint or application by any apprentice put out by the parish touching or concerning any misuse, refusal of necessary provisions, cruelty or other ill treatment of or towards such apprentice by his or her master or mistress and due proof thereof, to discharge such apprentice from his or her apprenticeship: And whereas instances of such ill treatment frequently occur, and it is fit that the expectation of such discharge should not operate as an inducement to such ill treatment: Be it enacted, That in every case where any parish apprentice whatsoever shall be discharged from his apprenticeship by two justices under and by virtue of the said last-mentioned Act, it shall and may be lawful for such two justices to order such master or mistress to deliver up to such apprentice his or her clothes and wearing apparel; and also to pay to such churchwardens or overseers of the poor of the parish or place to which such apprentice shall belong some or one of them a sum not exceeding ten pounds, to be applied by them some or one of them, under the order of such justices, for the again placing and binding out such apprentice so discharged as aforesaid or otherwise for his or her benefit as to such justices shall seem meet; and also to pay a sum not exceeding five pounds in case such master or mistress shall refuse to deliver up such clothes and wearing apparel; and in case such master or mistress shall refuse to pay the sum so ordered by the said justices to be paid as aforesaid or either of them or any part thereof, it shall and may be lawful for such two justices by warrant under their hands and seals to levy the same by distress and sale of the goods and chattels of such master or mistress together with the reasonable expences of such distress, and also, that it shall and may be lawful for such two justices if they shall so think fit to compel such churchwardens and overseers of the poor some or one of them to enter into a recognisance for the effectual prosecution by indictment of such master or mistress for such ill treatment of any such apprentice so discharged as aforesaid, and also to order that the costs and expences of such prosecution shall be paid and discharged or reimbursed to such person or persons entering into such recognisance as aforesaid, one moiety thereof out of the poor rates of the parish or place to which such apprentice shall belong and the other moiety thereof out of the common stock of the county in which such parish or place shall lie; and in case the churchwardens and overseers of the poor of such parish or place for the time being shall refuse to pay such their moiety as aforesaid, it shall and may be lawful for such two justices by warrant under their hands and seals to levy the same by distress and sale of the goods and chattels of such churchwardens and overseers of the poor any or either of them together with the reasonable expences of such distress.

XII. 'And whereas it is not expedient that such master or mistress should be again entrusted with the care of another parish ap-

Justices may order any Master convicted under the last recited Act, when liable to take a Parish Apprentice, to pay to the Parish Officers a Sum not exceeding 10*l.* nor less than 5*l.* for the purpose of binding out the Child, &c.

Masters may appeal to the Quarter Sessions, &c.

On Notice of such Appeal, no Distress to be made till after the Quarter Session.

40*s.* Penalty so failing to support Appeal.

'prentice;' be it enacted, That in every case where any parish apprentice shall have been so discharged from any master or mistress as aforesaid under and by virtue of the said last-mentioned Act, and such master and mistress shall have been convicted of such offence in consequence of such prosecution by indictment as aforesaid, or shall have been found guilty thereof in any action brought at the suit of the party injured, it shall not be lawful for the churchwardens and overseers of the poor of any parish or place, or the major part of them, to bind any other apprentice upon such person; but that whenever such person ought or would be compellable to take a parish apprentice, it shall and may be lawful for any two justices of the peace of the county city town riding division or place where such person shall reside, upon application made to them by the churchwardens and overseers of the poor of such parish or place, to order and direct that such person shall pay (3) into the hands of such churchwardens and overseers of the poor, some or one of them, a sum not exceeding the sum of ten pounds nor less than five pounds, for the purpose of binding out the child (intended to be bound) an apprentice, with the approbation of such two justices; and in case such person shall refuse to pay such sum as aforesaid, then that it shall and may be lawful for such two justices by warrant under their hands and seals to levy the same by distress and sale of the goods and chattels of such person, together with the reasonable expences of such distress: Provided always, That it shall and may be lawful for such master or mistress as aforesaid, from whom any parish apprentice shall be discharged under and by virtue of the Act made in the twentieth year of the reign of King George the Second, to appeal against the order made for such discharge as aforesaid, and also against any such order made for his or her payment of any such sum or sums of money in consequence thereof as aforesaid, or for his or her payment of any sum or sums of money in lieu of a subsequent binding under and by virtue of the provisions of this Act, to the next general quarter sessions of the peace of the county city riding division or place where such orders, any or either of them, shall be made, and upon such appeal the said court of general quarter sessions shall finally determine the same, and in their discretion allow to all parties their reasonable costs; and no such distress for enforcing the payment of any such sum or sums of money as are last mentioned, shall be taken until after the general quarter session of the peace to be holden next after any such order as aforesaid shall be made, in case the person who is ordered to pay the same shall within seven days after notice given to him or her of such order being made give notice to such churchwardens and overseers of the poor, some or one of them, of such intended appeal; and in case such person shall fail to appear in support of his appeal at such general quarter session, then the sum of forty shillings shall be added to the expences of the distress before directed to be taken and levied accordingly.

XIII. 'And whereas by the said last-mentioned Act it is also enacted, 'That it shall and may be lawful to and for two justices upon application or complaint made upon oath by any master or mistress against 'any parish apprentice, touching or concerning any misdemeanor mis-carriage or ill behaviour of such apprentice to hear and determine the 'same, and punish the offender in such manner as is therein mentioned, 'or otherwise to discharge such apprentice from his apprenticeship, and 'it is expedient to prevent the expectation of such discharge being an 'inducement to such ill behaviour on the part of the apprentice,' Be it

(3) A promissory note to the amount of the fair expences of a prosecution agreed to be given at the recommendation of the Court of Quarter Sessions by a defendant who stood convicted before them a misdemeanour, in ill-treating his parish apprentice, for which the parish officers had been bound over by recognisance to prosecute him

under the Stat. 32 Geo. III. c. 57; and the giving of which security was considered by the Court in abatement of the period of imprisonment to which he would otherwise have been sentenced, is legal and may be enforced by action. *Beeley v. Wingfield*, 11 E. R. 46.

No. X.
32 Geo. III.
c. 57.

Apprentices discharged for ill Behaviour may be sent to the House of Correction.

Parties aggrieved may appeal to the Quarter Sessions.

enacted, That in all cases where any parish apprentice shall be discharged by two justices under and by virtue of the said last-mentioned Act, from his or her apprenticeship, on account of any misdemeanor miscarriage or ill behaviour on the part of such apprentice, that it shall and may be lawful for such two justices if they think proper by warrant under their hands and seals to punish such offender by commitment to the house of correction, there to remain and be corrected and kept to hard labour for a reasonable time, not exceeding three calendar months, as to such justices shall seem meet.

XIV. And be it further enacted, That if any person shall be aggrieved by any matter or thing done or omitted to be done by any churchwarden or overseer of the poor, or by any of his Majesty's justices of the peace, or by any other person or persons whomsoever under and by virtue of this Act, besides such matters or things for which an appeal is hereinbefore specially given, it shall and may be lawful for such person or persons to appeal to the next general quarter sessions of the peace, where the same shall be heard and finally determined; and such court may award reasonable costs and expences to either party before them.

Schedule referred to in this Act.

A.

FORM of Proviso to be added to the Covenant for Maintenance.

PROVIDED always, that the said last-mentioned covenant on the part of the said *F. M.* [*the Master*] his executors and administrators, to be done and performed, shall continue and be in force for no longer time than for three calendar months next after the death of the said *F. M.* in case he the said *F. M.* shall happen to die during the continuance of such apprenticeship, according to the provisions of an Act passed in the thirty-second year of the reign of King George the Third, intituled [*Here set forth the Title of the Act.*]

B.

FORM of the Order of two Justices, directing a Parish Apprentice to continue with the Widow [or as the case may be] of his deceased Master, by Indorsement on the Indenture, or Counterpart thereof; on which Binding no more was paid than the Sum for that Purpose mentioned in this Act.

County of } **WHEREAS** *F. M.* [*the Master*] within named, late of the parish of _____ in the said county, died on the _____ day of _____ being within three calendar months now last past; we, two of his Majesty's Justices of the Peace for the county aforesaid, whose names are hereunto subscribed, on the application and at the request of *A. M.* widow [*or as the case may be*] of the said *F. M.* living with and being part of the family of the said *F. M.* at the time of his death, do hereby order and direct that *A. P.* the apprentice within named, who was in the service and actual employment of the said *F. M.* at the time of his death, shall serve the said *A. M.* as such apprentice for the residue of the term of such apprenticeship within mentioned, according to the provisions of an Act passed in the thirty-second year of the reign of King George the Third, intituled *An Act for the further Regulation of Parish Apprentices.* Witness our hands this _____ day of _____
I, the above-named *A. M.* do hereby declare, that the above order is made at my request, and that I do accept the said *A. P.* as my apprentice, according to the terms and covenants contained in the said indenture, and according to the provisions of the said Act. Witness my hand the day and year above written.

C.

FORM of the like Order by a separate Instrument.

County of } **WHEREAS** it appears unto us, two of his Majesty's Justices of the Peace for the said County, That *A. P.*

[the Apprentice] was bound an Apprentice by the Churchwardens and Overseers of the Poor of _____, to F. M. [the Master] late of the said Parish, _____, and that the said F. M. died on _____ day of _____, being within three calendar months now last past: Now we, the said two Justices, on the application and at the request, &c. [then to the end as before, mutatis mutandis.]

No. X.

32 Geo. III.

c. 57.

D.

FORM of the Assignment of such a Parish Apprentice, with the Consent of two Justices, by Indorsement on the Indenture or Counterpart.

County of } **BE** it Remembered, that the within-named F. M. [the Master] by and with the consent and approbation of I. P. and K. P. two of his Majesty's Justices of the Peace for the said County, whose Names are subscribed to the consent hereunder written, doth hereby assign A. P. the Apprentice within named, unto N. M. [the new Master] to serve him during the residue of the term within mentioned; and that he the said N. M. doth hereby agree to accept and take the said A. P. as an Apprentice for the residue of the said term, and doth hereby acknowledge himself his executors and administrators, to be bound by the agreements and covenants within mentioned on the part of the said F. M. to be done and performed according to the true intent and meaning thereof, and pursuant to the provisions of an Act passed in the thirty-second year of the reign of King George the Third, intituled, *An Act for the further Regulation of Parish Apprentices*. In witness whereof we, the said F. M. and N. M. have hereunto set our hands this _____ day of _____

We, two of his Majesty's Justices of the Peace above-mentioned, do consent thereto. Witness our hands, this _____ day of _____

I. P.
K. P.

E.

FORM of the like Assignment by a separate Instrument.

County of } **WHEREAS** it appears unto us, I. P. and K. P. two of his Majesty's Justices of the Peace for the said County, whose Names are subscribed to the consent hereunder written, that A. P. was bound an Apprentice by the Churchwardens and Overseers of the Poor of the Parish of _____, to F. M. of the said Parish, _____ by Indenture bearing date on or about the _____ day of _____ until the said A. P. should attain his age of twenty-one years: Now be it remembered, that the said F. M. by and with the consent, &c. [and so to the End as before, mutatis mutandis.]

[No. XI.] 33 George III. c. 55.—An Act to authorize Justices of the Peace to impose Fines upon Constables, Overseers, and other Peace or Parish Officers, for Neglect of Duty, and on Masters of Apprentices for ill Usage of such their Apprentices; and also to make Provision for the Execution of Warrants of Distress granted by Magistrates.—[21st June 1793.]

WHEREAS it is expedient to give further powers to Justices of the Peace to impose fines upon overseers of the poor, constables, and other peace and parish officers within their respective jurisdictions, for neglect of duty in such their respective offices, or for disobedience of the warrants or orders of such justices; and it is also expedient to empower justices to impose fines upon masters of ap-

33 Geo. III.
c. 55.

No. XI.
33 Geo. III.
c. 55.

Justices may impose Fines upon Constables, &c. for Neglect of Duty, and on Masters for ill Usage of apprentices.

Application of Fines.

Persons aggrieved may appeal to the Quarter Sessions.

For want of Distress, Offenders may be committed.

No Persons to be deemed Trespassers on Account of Irregularity in Proceedings, &c.

Where Distress cannot be found in the Jurisdiction of Justices granting Warrants, it may be levied in any other Place.

'prentices for ill usage of such their apprentices, and also to make provision for the execution of warrants of distress granted by magistrates; May it therefore please your Majesty that it may be enacted; and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled and by the authority of the same, That it shall and may be lawful for any two or more of his Majesty's justices of the peace assembled at any special or petty sessions of the peace, upon complaint being made upon oath before them, of any neglect of duty or of any disobedience of any lawful warrant or order of any justice or justices of the peace by any constable overseer of the poor or other peace or parish officer, or upon complaint made to such two or more justices upon oath, by or on the behalf of any apprentice to any trade or business whatsoever, whether bound apprentice by any parish or township or otherwise, provided that not more than the sum of ten pounds be paid upon the binding of such apprentice, against his or her master or mistress of any ill usage of such apprentice by such master or mistress (such constable overseer or other officer master or mistress having been duly summoned to appear and answer such charge or complaint,) to impose upon conviction any reasonable fine or fines not exceeding the sum of forty shillings, upon such constable overseer or other officer master or mistress respectively, as a punishment for such disobedience neglect of duty or ill usage, and by warrant under the hands and seals of any two or more of such justices assembled at any such special or petty sessions as aforesaid, to direct such fine or fines if not paid to be levied by distress and sale of the goods and chattels of the person or persons so offending, rendering the overplus (if any) after deducting the amount of such fine or fines and the charges of such distress and sale to such offender or offenders; and such fine or fines which may be imposed upon any such constable overseer or other officer as aforesaid, shall be applied and disposed of for the relief of the poor of the parish township or place where the offenders shall respectively reside, at the discretion of the justices imposing the same, and such fine or fines which may be imposed upon any such master or mistress shall at the discretion of the justices imposing the same be either so applied and disposed of as aforesaid, or be otherwise paid and applied to or for the use and benefit of such apprentice for or towards a recompence or compensation for the injury which may have been by him or her sustained by reason of such ill usage as aforesaid; and if any person shall be aggrieved by the imposition of such fine or fines as aforesaid, or by any order or warrant of distress for raising and levying the same, or by the judgment or determination of the said justices, or by any Act to be done in the execution of such warrant of distress, such person or persons so aggrieved shall and may appeal to the next general or quarter sessions of the peace to be held for the county riding or division within which such person shall reside, of which appeal ten days' notice at the least shall be given; and for want of such distress, such person or persons shall be committed to the House of Correction for any space of time not exceeding ten days.

II. Provided always and be it further enacted, That no person acting under any such warrant of distress as aforesaid, shall be deemed a trespasser *ab initio*, by reason of any irregularity or informality in such warrant or in any proceedings thereon, but any person aggrieved by the issuing or execution of such warrant, may recover the special damages thereby by him or her sustained in an action of trespass, or on the case in any of his Majesty's Courts of Record.

III. 'And whereas warrants of distress granted by justices of the peace are in many instances ineffectual, by reason of the goods and chattels of the persons against whom such warrants are granted being out of the jurisdiction of the justice granting the same:' Be it therefore further enacted, That in all cases where any penalty forfeiture fine or other money may by the warrant of any justice or justices of the peace be directed to be levied by distress and sale of the goods and chattels of any person or persons if sufficient distress cannot be found within the

limits of the jurisdiction of the justice granting such warrant of distress on oath thereof made by one witness before any justice of the peace of any other county riding division city borough town corporate or place (which oath shall be by him certified by indorsement on such warrant) such penalty forfeiture fine or other money or so much thereof as may not have been before levied or paid shall and may by virtue of such warrant and indorsement be raised and levied by the person or persons to whom such warrant of distress shall have been originally directed, by distress and sale of the goods and chattels of such person or persons in such other county riding division city borough town corporate or place, and the money arising by such distress and sale shall be applied and disposed of for such purposes and in like manner as if sufficient goods and chattels of such person or persons had been found within the jurisdiction of the magistrate originally granting such warrant; and if no such distress can be found such offender or offenders shall and may be forthwith proceeded against according to law: Provided always that no justice who shall indorse any certificate upon or authorise the execution of any such warrant of distress which may not have been granted within his jurisdiction, shall be answerable or accountable for any irregularity which may have been committed or done in or about the obtaining or granting of such warrant of distress.

No. XL
33 Geo. III.
c. 55.

Justices authorising the Execution of Warrants not granted within their Jurisdictions, not to be answerable for any Irregularity in obtaining them.

[No. 12.] 42 George III. c. 46.—An Act to require Overseers and Guardians of the Poor to keep a Register of the several Children who shall be bound or assigned by them as Apprentices; and to extend the Provisions of an Act passed in the Twentieth Year of the Reign of his present Majesty, to the binding of Apprentices by Houses of Industry, or Establishments for the Poor, which have been authorized so to do, by subsequent Acts.—[7th May 1802].

[20 G. 3. c. 36.]

‘ WHEREAS by an Act passed in the forty-third year of the reign of Queen Elizabeth, intituled *An Act for the Relief of the Poor*, the overseers of the poor of every parish are enabled to bind out any poor children as apprentices, until every such poor male child shall attain the age of twenty-four years, and until every such female child shall attain the age of twenty-one years or the time of her marriage; and whereas it would tend to the benefit of the children so bound as apprentices, if the overseers of the poor were required to keep a register of all children who shall be so bound;’ may it therefore please you Majesty that it may be enacted; and be it enacted by the King’s most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled and by the authority of the same, That the overseers of the poor of every parish township or place appointed by virtue of the said recited Act, passed in the forty-third year of the reign of Queen Elizabeth, shall from and after the first day of June, and they are hereby required to provide and keep a book or books at the expence of the said parish township or place, and to enter or cause to be entered therein the name of every child who shall be bound out by them respectively as an apprentice, together with the several other particulars in manner and form required by this Act according to the schedule hereunto annexed; and every such entry when made in the said register shall be produced and laid before the two justices of the peace who shall signify their assent to the indenture of apprenticeship of every such child, at the time when such indenture shall be laid before such justices for their assent as required by the said recited Act; and each entry in the said register shall if approved of by such justices, be signed by them according to the form marked in the schedule hereunto annexed.

42 Geo. III.
c. 46.

43 Eliz. c. 2.

Overseers of the Poor shall keep a Book for entering the Name of every Apprentice bound out by them, and each Entry shall be signed by two Justices, according to the Form in the Schedule.

No. XII.

42 Geo. III.
c. 46.

Penalty for
not providing
such Book, or
neglecting to
make such En-
tries therein,
&c. not exceed-
ing 5*l.* leviable
by Distress, &c.

II. And be it further enacted, That if any overseer or overseers of the poor shall refuse or neglect to provide and keep such book or books or to make such entry therein as before directed, or shall destroy or permit suffer or cause to be destroyed any such book or books, or shall wilfully and knowingly obliterate deface or alter any such entry so that the same shall not be a true entry of the several particulars hereby required, or shall wilfully and knowingly make a false entry therein or shall so permit suffer or cause the same to be done, or shall not produce or lay such book or books before such justices as aforesaid for their signatures, or shall not deliver or tender or cause to be delivered or tendered such book or books to his her or their successor or successors in office within fourteen days after the appointment of such successor or successors, or if any successor or successors shall refuse or neglect to receive the same when offered or tendered to him or them by his or their predecessor or predecessors in office, then and in every such case every such person so offending shall for every such offence, on being convicted thereof before any two justices of the peace for the county city or place where the offence shall be committed, on the oath of any credible witness (which oath such justices are hereby empowered and required to administer,) or on the voluntary confession of the party or parties, forfeit and pay a sum not exceeding five pounds, to be recovered by distress and sale of the goods and chattels of the offender or offenders by warrant under the hands and seals of the justices before whom the offender or offenders shall be convicted, and the overplus (if any) of the money arising by such distress and sale shall be returned upon demand to the owner or owners of such goods and chattels after deducting the costs and charges of making keeping and selling such distress; and such penalties and forfeitures shall be applied for the use of the poor of the parish township or place for which such offender or offenders shall be overseer or overseers; and in case sufficient distress cannot be found or such penalties and forfeitures shall not be paid forthwith, it shall and may be lawful to and for such justices by warrant under their hands and seals and they are hereby required to commit every such offender to the common gaol or house of correction of the county city or place where the offence shall be committed, there to remain without bail or mainprize for any time not exceeding one calendar month unless such penalties and forfeitures shall be sooner paid and satisfied.

III. And be it further enacted, That it shall and may be lawful for any person or persons at all seasonable hours to inspect such book or books in the hands of the said overseer or overseers, and to take a copy of such entry in such book or books upon payment of the sum of sixpence, except in case of any of his Majesty's justices of the peace acting in and for the said county who shall be entitled at all such times to inspect such book *gratis*; and every such book shall be and be deemed to be sufficient evidence in all courts of law whatsoever in proof of the existence of such indentures, and also of the several particulars specified in the said register respecting such indentures, in case it shall be proved to the satisfaction of such court that the said indentures are lost or have been destroyed.

IV. And be it further enacted, That the justices of the peace before whom any person shall be convicted by virtue of this Act shall and may cause the conviction to be drawn up in following form; (*videlicet*),

Form of Con-
viction.

‘ **B**E it Remembered, That on the _____ day of _____
in the year of our Lord,
‘ A. B. is convicted before us two of his Majesty's Justices of the Peace
‘ for the _____ [*specifying the Offence and the Time and*
‘ *Place when and where committed, as the case may be*] contrary to an Act
‘ made in the Forty-second year of the reign of King George the Third,
‘ intituled [*here set forth the Title of this Act.*] Given under our hands
‘ and seals the day and year above mentioned.

When Appren-
tices shall be
assigned under

V. And be it further enacted, That whenever any such apprentice shall be assigned or bound over to any other master or mistress by virtue 32 G. 3. c. 57. a like Entry thereof shall be made in the said Book.

of an Act passed in the thirty-second year of the reign of his present Majesty, intituled *An Act for the further Regulation of Parish Apprentices*, then and in every such case the overseer or overseers party or parties to the assignment of such apprentice shall insert the name and residence of the master or mistress to whom such apprentice shall be assigned or bound over as aforesaid, together with the other particulars, in the book or books herein directed to be provided and kept by such overseer or overseers; and for non-performance thereof, every such overseer or overseers shall be liable to the pains penalties and forfeitures incurred by this Act, in like manner as if such apprentice had been originally bound to such master or mistress.

No. XII.
42 Geo. III.
c. 46.

VI. And whereas by different Acts of Parliament the like powers are given to certain persons therein named for binding out parish apprentices as are given to the overseers of the poor; Be it therefore enacted, That such several persons shall be subject to the like pains penalties and forfeitures for non-compliance with the several provisions and directions in this Act contained for registering any parish apprentice bound out or assigned by them respectively, to which overseers of the poor are subject and liable by virtue of this Act for non-compliance with such provisions and directions.

This Act extended to Persons having like Powers as Overseers.

VII. And be it further enacted, That if any person or persons shall think himself herself or themselves aggrieved by any thing done in pursuance of this Act, it shall and may be lawful to and for such person or persons to appeal to the justices at the first general quarter sessions of the peace to be holden for the county or place where the cause of appeal shall arise, within four calendar months next after the cause of appeal shall have arisen, on giving to the person or persons appealed against ten days notice of such appeal and of the matter thereof; and the justices at such sessions are hereby authorised and required to hear and determine the matter of such appeal in a summary way, and to grant such costs and expences to either party as to them shall seem reasonable.

Appeal may be made to Quarter Sessions.

VIII. 'And whereas by an Act passed in the twentieth year of his present Majesty, the powers which were given by several preceding Acts of Parliament to bind poor children apprentices are by the said Act of the twentieth year of his Majesty extended as to the power of compelling persons to receive and provide for such poor children as should be appointed to be bound apprentices to them in pursuance of the said prior Acts: And whereas since that time several Acts have passed by which houses of industry or establishments for the poor have been authorised to bind apprentices; and doubts have arisen whether the powers and provisions in the said Act of the twentieth of his Majesty will extend to the case of apprentices so bound out under the authority of such subsequent Acts; Be it therefore enacted by the authority aforesaid, That the several powers and provisions in the said recited Act of the twentieth of his Majesty contained shall extend and are hereby extended and shall have full effect to poor children bound apprentices under the authority of any Acts passed since the said recited Act, in the same manner as if such Acts had passed prior to the said recited Act of the twentieth of his Majesty.

The Powers of 20 G. 3. c. 36. shall extend to poor Children bound Apprentices under the Authority of any subsequent Act.

[No. XIII.] 42 Geo. III. c. 73.—An Act for the Preservation of the Health and Morals of Apprentices and others, employed in Cotton and other Mills, and Cotton and other Factories.

No. XIII.
42 Geo. III.
c. 73.

[No. XIV.] 51 Geo. III. c. 80.—An Act to render valid certain Indentures for the Binding of Parish Apprentices.—[15th June 1811.]

‘ WHEREAS by an Act passed in the forty-third year of the reign of her late Majesty Queen Elizabeth, intituled *An Act for the Relief of the Poor*, it is enacted, That the churchwardens of every parish, and four three or two substantial householders there, as shall be thought meet, having respect to the proportion and greatness of the same parish and parishes, to be nominated yearly in *Easter* week, or within one month after *Easter*, in the manner therein directed, shall be overseers of the poor of the same parish, and that it shall be lawful for the said churchwardens and overseers, or the greater part of them by the assent of two justices of the peace, to bind the children of such parents, as shall not by the said churchwardens and overseers or the greater part of them be thought able to maintain their children, to be apprentices: And whereas in divers small parishes two persons only have been annually appointed to act in the capacity of churchwardens as well as overseers of the poor: And whereas divers indentures for the binding of parish apprentices and certificates of the settlements of poor persons have been executed and signed by such two persons, purporting to be the churchwardens and overseers of such parishes; but, by reason that the said indentures and certificates have not been signed by distinct persons as churchwardens and other distinct persons as overseers, such indentures and certificates have been or may be deemed to be void: Be it therefore enacted, by the King’s most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That all indentures for the binding of parish apprentices, and all certificates of the settlements of poor persons, which have been heretofore executed and signed by two persons only, acting or purporting to act in the capacity of churchwardens as well as of overseers of the poor, and also all such indentures and certificates as shall hereafter be so signed, shall be considered as good valid and effectual as if the same had been executed and signed by distinct persons as churchwardens and distinct persons as overseers of the poor according to the said recited Act; (1.) any thing therein or in any other Act contained to the contrary thereof notwithstanding.

51 Geo. III.
c. 80.
43 Eliz. c. 2.
§ 1.

§ 5.

Indentures and
Certificates
heretofore signed
by two Persons
only, acting
as Churchwardens,
&c. valid.

II. Provided always, That nothing in this Act contained shall extend to do away or alter any decision which may have taken place in any Court of Law, respecting the binding of any parish apprentice, or the settlement of any poor person before the passing of this Act.

Prior Decisions.

(1.) The statute extends to parishes where there are three officers only, one of whom acts as churchwarden as well as overseer, and therefore an indenture in such a case signed by two parish

officers, one of whom acted in a double capacity, was held to be valid. *Rex v. St. Margaret’s, Leicester*, (Inhab.) 2 B. & A. 200.

[No. XIV. a.] 53 Geo. III. c. 40.—An Act to repeal so much of several Acts, passed in *England* and *Scotland* respectively, as empowers Justices of the Peace to rate Wages, or set Prices of Work, for Artificers, Labourers, or Craftsmen.—[15th April 1813.]

WHEREAS an Act passed in the fifth year of the reign of her late Majesty Queen Elizabeth, intituled *An Act containing divers Orders*

53 Geo. III.
c. 40.
5 Eliz. c. 4.

No. XIV. a. for Artificers Labourers Servants of Husbandry or Apprentices: And whereas another Act passed in the first year of the reign of his late Majesty King James the First, intituled *An Act made for the Explanation of the Statute made in the Fifth Year of the late Queen Elizabeth's Reign, concerning Labourers*: And whereas an Act passed in Scotland in the twenty-second Parliament of his Majesty King James the First in England and the sixth of Scotland, intituled *Anent the Justices for keeping his Majesty's Peace, and their Constables*: And whereas another Act passed in Scotland in the first Parliament of his Majesty King Charles the Second, intituled *Commission and Instruction to the Justices of the Peace and Constables*: And whereas it is expedient that the powers given by the said Acts and by various other Acts passed in the Parliaments of Scotland to justices of the peace and magistrates of cities and boroughs to rate wages or fix prices for work for artificers labourers and craftsmen should be repealed: May it therefore please your Majesty that it may be enacted; and be it enacted by the King's most excellent Majesty, by with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That so much of the said recited Acts and of each of them or of any other Act of Parliament in force in Scotland as authorises and empowers any justices of the peace or magistrates of cities and burghs to rate wages or fix prices of work for artificers labourers and craftsmen shall be and the same is hereby repealed; and all orders heretofore made by any justice or justices of the peace or magistrates in England or Scotland respectively under the authority of the said recited Acts or any or either of them, for or in relation to the rating any wages or settling or fixing any prices of work to be done or performed by any artificers labourers or craftsmen or servants, shall be and the same are hereby declared to be void and of none effect; any thing in the said Acts or any or either of them to the contrary notwithstanding.

1 Jac. 1. c. 6.
Scotch Acts,
22d Parliament,
Jac. 1.
1st Parliament,
Car. 2.

Recited Acts
empowering
Magistrates to
fix Wages re-
pealed; and all
Orders made
by Magistrates
under such Acts
repealed.

[No. XIV. b.] 54 Geo. III. c. 96.—An Act to amend an Act, passed in the Fifth Year of Queen Elizabeth, intituled *An Act containing divers Orders for Artificers, Labourers, Servants of Husbandry, and Apprentices*.—[18th July 1814.]

55 Geo. III.
c. 96.

5 Eliz. c. 4.
Reciting that
Persons should
not exercise any
Art except they
had served an
Apprenticeship
of Seven Years,
&c.

WHEREAS by an Act passed in the fifth year of the reign of her late Majesty Queen Elizabeth, intituled *An Act containing divers Orders for Artificers Labourers Servants of Husbandry and Apprentices*, it was enacted, That from and after the first day of May then next coming it should not be lawful to any person or persons, other than such as did then lawfully use or exercise any art mystery or manual occupation, to set up occupy use or exercise any craft mystery or occupation then used or occupied within the realm of England or Wales, except he shall have been brought up therein seven years at least as an apprentice; nor to set any person on work in such mystery art or occupation being not a workman at that day, except he shall have been apprentice as aforesaid, or else having served as an apprentice as aforesaid shall become a journeyman or hired by the year, upon pain that every person willingly offending or doing the contrary shall forfeit and lose for every default forty shillings for every month: And whereas it is expedient that so much of the said Act should be repealed: Be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That so much of the said recited Act shall be and the same is hereby repealed and declared to be null and void to all intents and purposes whatsoever.

So much of the
recited Act shall
be repealed.

Other Part of
the Act respect-
ing Apprentices
repealed.

II. And whereas by the said statute divers rules and regulations were enacted respecting the qualifications of persons entitled to take and become apprentices and the term of years for which such apprentices should be bound, and as to the mode of binding such apprentices; and it was also

enacted by the said statute, That all indentures covenants promises and bargains of and for the having taking or keeping of any apprentice otherwise thereafter to be made or taken than is by the said statute limited ordained and appointed should be clearly void in the law to all intents and purposes: and that every person that should from thenceforth take or newly retain any apprentice contrary to the tenor and true meaning of the said Act should forfeit and lose for every apprentice so by him taken the sum of ten pounds: And whereas it is expedient that so much of the said recited Act should be repealed; Be it therefore enacted, That so much of the said recited Act shall be and the same is hereby repealed; and that it shall and may be lawful for any person to take or retain or become an apprentice, though not according to the provisions of the said Act; and that indentures deeds and agreements in writing entered into for that purpose, which would be otherwise valid and effectual, shall be valid and effectual in law, the repeal of so much of the said Act as is herein last above recited notwithstanding.

No. XIV. b.
54 Geo. III.
c. 96.

Justices may
determine Com-
plaints as here-
tofore.

Customs of
London, &c. in
respect to Ap-
prentices not to
be affected.

III. And be it further enacted, That any justice or justices of the peace may hear and determine any complaints that may arise respecting any apprenticeships in like manner as if they had been made under the Act hereby in part repealed.

IV. Provided always, and be it further enacted, That this Act or any thing herein contained shall not extend or be construed to extend to defeat alter or prejudice the custom and order of the City of London concerning apprentices, or the ancient custom usages privileges or franchises of the said city, or of any other city town corporation or company lawfully constituted or the citizens and freemen thereof; or any bye law or regulation of any corporation or company lawfully constituted.

[No. XV.] 54 Geo. III. c. 107.—An Act to render valid certain Indentures for the binding of Parish Apprentices, and Certificates of the Settlement of poor Persons.—[23d July 1814.]

WHEREAS by an Act passed in the forty-third year of her late Majesty Queen Elizabeth, intituled *An Act for the Relief of the Poor*, it is enacted, that it shall be lawful for the churchwardens and overseers of the poor of any parish or the greater part of them, by the assent of two justices of the peace, to bind the children of such parents as shall not (by the said churchwardens and overseers or the greater part of them) be thought able to maintain their children to be apprentices: And whereas by an Act passed in the eighth and ninth year of his late Majesty King William the Third, intituled *An Act for supplying some Defects in the Laws for the Relief of the Poor of this Kingdom*, it is enacted, That persons coming to inhabit in any parish township or place shall bring with them a certificate under the hands and seals of the churchwardens and overseers of the poor or the major part of them of some other parish township or place thereby owning and acknowledging the person or persons mentioned in the said certificate to be an inhabitant or inhabitants legally settled in that parish township or place: And whereas divers parishes contain within themselves several townships hamlets or chapelries, each of which separately maintains its own poor: And whereas in such parishes the churchwardens are for the most part sworn into their offices as churchwardens of the whole parish, although in truth and in fact they act as churchwardens of the separate townships hamlets or chapelries therein contained: And whereas divers indentures for the binding of parish apprentices and certificates of the settlements of poor persons have heretofore been signed and executed by a person or persons styling himself or themselves and stated in such indentures and certificates to be churchwarden or churchwardens chapelwarden or chapelwardens of the township hamlet or chapelry binding such poor apprentices or granting such certificate: And whereas such person or persons have not been sworn into the office of churchwarden or chapelwardens of

54 Geo. III.
c. 107.
43 Eliz. c. 2.

8 & 9 W. 3.

c. 30.

No. XV.
54 Geo. III.
c. 107.

Indentures and
Certificates of
Settlement
made valid, al-
though the
Churchwardens,
&c. were
not sworn in.

Such Indentures
and Certificates
to be valid if
executed by the
Overseers of
the Poor of any
Township, &c.

Not to affect
Settlements.

such township hamlet or chapelry, but of churchwarden of the parish wherein such township hamlet or chapelry is contained: Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That all indentures for the binding of poor apprentices and all certificates of the settlements of poor persons which have been heretofore signed and executed or which shall hereafter be signed and executed by a person or persons who at the time of his or their signing and executing such indenture or certificate of settlement acted as churchwarden or churchwardens chapelwarden or chapelwardens of the township hamlet or chapelry, binding such poor apprentice or granting such certificate of settlement, shall be deemed and taken to be as good valid and effectual as if the same had been signed and executed by a person or persons actually sworn into the office of churchwarden or chapelwarden of such township hamlet or chapelry: Provided always, that such person or persons shall have been duly sworn into the office of churchwarden of the parish wherein the township hamlet or chapelry binding such poor apprentice or granting such certificate be contained, or into the office of churchwarden or chapelwarden of such township hamlet or chapelry.

II. And be it further enacted, That all indentures for the binding of poor apprentices and all certificates of the settlement of poor persons which shall have been heretofore signed and executed or which may hereafter be signed and executed by the overseers of the poor of any township hamlet chapelry or place, and the churchwarden or churchwardens chapelwarden or chapelwardens acting for or appointed in respect of such township hamlet chapelry or place or the major part of them, shall be deemed and taken to be as good valid and effectual as if the said indentures and certificates had been signed and executed by such overseers and the churchwardens of the parish wherein such township hamlet chapelry or place is situate or the major part of them.

III. Provided always, and be it further enacted, That nothing herein contained shall be construed to alter impeach or affect the settlement of any person for whose removal any order of justices shall have been duly made before the passing of this Act.

[No. XVI.] 56 Geo. III. c. 139.—An Act to regulate the binding of Parish Apprentices.—[2d July 1816.]

56 Geo. III.
c. 139.

How Parish
Apprentices
shall be bound.

WHEREAS many grievances have arisen from the binding of poor children as apprentices by parish officers to improper persons and to persons residing at a distance from the parishes to which such poor children belong, whereby the said parish officers and the parents of such children are deprived of the opportunity of knowing the manner in which such children are treated, and the parents and children have in many instances become estranged from each other; and also from the permission given to apprentices by the persons to whom such apprentices have been bound to serve others without a formal assignment, whereby the discretion to be exercised by magistrates in placing out apprentices to suitable persons is frequently rendered of no avail; For remedy whereof be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That from and after the first day of *October* in the year of our Lord one thousand eight hundred and sixteen, before any child shall be bound apprentice by the overseers of the poor of any parish township or place, such child shall be carried before two justices of the peace of the county riding division or place wherein such parish township or place shall be situate, who shall inquire into the propriety of binding such child apprentice to the person or persons to whom it shall be proposed by such overseers to bind such child; and such justices shall particularly inquire and consider whether such person or persons reside or have his her or their place or

places of business within a reasonable distance from the place to which such child shall belong, having regard to the means of communication between such places, or whether any circumstances shall make it fit in the judgment of such justices that such child should be placed apprentice at a greater distance; and if the father or mother of such child shall be living, and shall reside in or near the place to which such child shall belong, such justices shall (if they see fit) examine such father or mother or either of them, and shall particularly inquire as to the distance of the residence or place of business of the person or persons to whom it shall be proposed to place such child and the means of communication therewith; and such justices shall also inquire into the circumstances and character of such person or persons; and if such justices shall upon such examination and inquiry, think it proper that such child should be bound apprentice to such person or persons, such justices shall make an order declaring that such person or persons is or are fit person or persons to whom such child may be properly bound as apprentice, and shall thereupon order that the overseer or overseers of the place to which such child shall belong shall be at liberty to bind such child apprentice accordingly; which order shall be delivered to such overseer or overseers as the warrant for binding such child apprentice as aforesaid; and such order shall be referred to by the date thereof and the names of the said justices in the indenture of apprenticeship of such child; and after such order shall have been made, such justices shall sign their allowance of such indenture of apprenticeship, before the same shall be executed by any of the other parties thereto: Provided always, that no such child shall be bound apprentice to any person or persons residing or having any establishment in trade at which it is intended that such child shall be employed out of the same county, at a greater distance than forty miles from the parish or place to which such child shall belong, unless such child shall belong to some parish or place which shall be more than forty miles from the city of London, in which case it shall be lawful for the justices who shall authorise the apprenticing of such child to make a special order for that purpose, in which order such justices shall distinctly specify the grounds on which they shall think fit to allow of the apprenticing of such child to a person or persons residing or having an establishment in trade at a greater distance than forty miles from the parish or place to which such child shall belong.

II. And be it further enacted, That in all cases where the residence or establishment of business of the person or persons to whom any child shall be bound shall be within a different county or jurisdiction of the peace from that within which the place by the officers whereof such child shall be bound shall be situated, and in all other cases where the justices of the peace for the district or place within which the place by the officers whereof such child shall be bound shall be situated, and who shall sign the allowance of the indenture by which such child shall be bound shall not have jurisdiction, every indenture by which such child shall be bound at any time after the said first day of October shall be allowed as well by two justices of the peace for the county or district within which the place by the officers of which such child shall be bound shall be situated, as by two justices of the peace for the county or district within which the place shall be situated wherein such child shall be intended to serve: Provided always, that no indenture shall be allowed by any justice of the peace for the county into which such child shall be bound, who shall be engaged in the same business employment or manufacture in which the person to whom such child shall be bound is engaged; and notice shall be given to the overseers of the poor of the parish or place in which such child shall be intended to serve an apprenticeship, before any justice of the peace for the county or district within which such parish or place shall be shall allow such indenture; and such notice shall be proved before such justice shall sign such indenture, unless one of such overseers shall attend such justice, and admit such notice.

Indenture to be allowed by Two Justices of the County into which Apprenticeship is to be bound, as well as by Two Justices of the County from which he is bound.

III. Provided always and it is hereby declared, That the allowance of The Allowance by County Magistrates to be valid in Towns and Places having exclusive Jurisdiction.

No. XVI.
56 Geo. III.
c. 139.

Distance to which Apprentices may be bound not to be limited to Cities which are Counties of themselves.

No Settlement shall be gained unless Directions complied with.

Penalty on Overseers binding Apprentices contrary hereto.

Children not to be bound till they have attained Nine Years.

In Cases of Master's Removal, &c. how Apprentices shall be disposed of.

two justices of the peace for the county within which the place in which such child shall be intended to serve an apprenticeship shall be situated shall be valid and effectual, although such place may be situated in a town or liberty within which any other justices of the peace may in other respects have an exclusive jurisdiction.

IV. And whereas there are several cities and boroughs which are counties of themselves, and several districts situated without the limits of the county to which such districts respectively belong; Be it enacted, That the distance to which parish apprentices may be bound shall not be construed to be limited to such cities and boroughs being counties, but shall extend to the county in which any such city and borough and any such district though belonging to another county shall be locally situated.

V. And be it further enacted, That no settlement shall be gained by any child who shall be bound by the officers of any parish township or place by reason of such apprenticeship, unless such order shall be made and such allowances of such indenture of apprenticeship shall be signed as herein-before directed.

VI. And be it enacted, That in case any overseer or overseers shall bind an apprentice to any person or persons without having obtained such order and such allowances as herein-before required, and in case any person or persons shall receive any such apprentice as so bound, without such order and allowances having been first obtained, the said overseer or overseers and the said person or persons shall each respectively forfeit the sum of ten pounds for each apprentice so bound, to be recovered as the penalties herein-after given are directed to be recovered.

VII. And be it further enacted, That from and after the said first day of *October* it shall not be lawful for any parish officers to bind out any child as parish apprentice until such child shall have attained the age of nine years, any thing in any Act or Acts of Parliament to the contrary notwithstanding.

VIII. And be it further enacted, That if any person or persons to whom any child shall be bound apprentice by the overseers of the poor of any parish or place shall after the said first day of *October* remove his her or their residence or establishment of business out of the same county, or forty miles from the parish or place wherein the same was when such child was bound apprentice, such person or persons shall, at least fourteen days previous to such removal, give a written notice thereof to the churchwardens or overseers of the poor of the place where such apprentice shall then reside, unless such person or persons shall reside in such place under certificate; and in that case such persons shall give the like notice to the churchwardens or overseers of the poor of the place where such apprentice shall then be legally settled; and which churchwardens and overseers, and also the master or masters mistress or mistresses of such apprentice, shall cause such apprentice to appear before two of his Majesty's justices of the peace for the county or district within which such apprentice shall be then serving, who shall inquire whether it may be fit and proper that such apprentice should continue in the service of such person or persons or be discharged therefrom, or bound or assigned over to any other person or persons, and shall thereupon make order either for the continuance of such apprentice with such person or persons or for the discharge of such apprentice, or for the binding or assigning of such apprentice to any other person, as to them in their discretion shall seem meet; and if they shall see fit, shall also require the person or persons so giving notice of removal to pay the amount of the premium received with such apprentice, or such portion of it as to them shall seem meet, for the expence of assigning or binding such apprentice to any other person to be approved by the said justices; and the person or persons to whom such apprentice shall be so bound or assigned shall be subject to the same rules and regulations as the person or persons to whom such apprentice shall be originally bound; and in case any such master or masters mistress or mistresses shall remove as aforesaid, and shall take any such apprentice to any other place without such order as aforesaid,

or shall wilfully abandon and leave any such apprentice without giving such notice as aforesaid, every person so offending shall forfeit the sum of ten pounds for every such apprentice, to the churchwardens and overseers of the poor of the parish township or place wherein at the time of such removal or taking the apprentice shall have been legally settled, for the use of the poor of the same parish township or place; provided an information shall be exhibited for such offence within three calendar months next after the commission of the same.

IX. And whereas it may be expedient that those to whom parish apprentices are bound or assigned should be empowered to place out or assign over such apprentice to others, and it is proper that such placing out or assignments should in all instances be under the inspection and control of the magistrates; and it is fit that the person to whom such putting out or assignment shall be made and also the apprentice shall be made subject to the ordinary jurisdiction of justices of the peace, with respect to masters and parish apprentices; and it is inexpedient that any master or mistress should in any way discharge or dismiss from his or her service any parish apprentice without the consent of such justices; Be it therefore enacted, That from and after the first day of *October* in the year one thousand eight hundred and sixteen it shall not be lawful for any master or mistress to put away or transfer any parish apprentice to any other, or in any way to discharge or dismiss from his or her service any parish apprentice without such consent of justices as is directed in an Act passed in the thirty-second year of the reign of his present Majesty, intituled *An Act for the further Regulation of Parish Apprentices*; and that no settlement shall be gained by any service of such apprentice, after such putting away or transfer, unless such service shall have been performed under the sanction of such consent as aforesaid.

X. And be it further enacted, That any person or persons who after the first day of *October* in the year one thousand eight hundred and sixteen shall put away or transfer any parish apprentice to another, or who shall in any way discharge or dismiss from his or her service any parish apprentice without such consent as aforesaid, shall forfeit a sum not exceeding ten pounds for every apprentice so transferred.

XI. And whereas the salutary provisions enacted by an Act passed in the forty-third year of the reign of her Majesty Queen *Elizabeth*, intituled *An Act for the Relief of the Poor*, are frequently evaded in the binding out of poor children, and the premium of apprenticeship or a part thereof is clandestinely provided by parish officers, who are thus enabled to bind out such poor children without the sanction of justices of peace; Be it further enacted, That after the said first day of *October* no indenture of apprenticeship, by reason of which any expence whatever shall at any time be incurred by the public parochial funds, shall be valid and effectual unless approved of by two justices of the peace under their hands and seals, according to the provisions of the said Act and of this Act.

XII. And be it further enacted, That all penalties and forfeitures hereby imposed for any offence against this Act shall and may be recovered by information before any two justices of the peace of the county or district where such offence shall be committed.

XIII. And be it further enacted, That it shall and may be lawful to and for the justices before whom any such penalty shall be recovered to direct such penalty, after deducting the necessary costs and charges attending any information and the proceedings thereon, to be paid applied and distributed either to the person or persons giving information of the offence for which such penalty shall be incurred, or to the overseer of the poor of the parish or township in which such offence shall have been committed, or by the officers whereof such apprentice shall have been bound, for the use of the poor of such parish or township, or in the binding of the apprentice respecting whom such offence shall be committed to any other person, or to be distributed and applied for any one or more of such purposes as to such justices shall seem meet.

XIV. And be it further enacted, That in case of non-payment of any penalty hereby imposed, the same shall be levied by distress and sale of

No. XVI.
56 Geo. III.
c. 139.

Provisions of
32 G. 3. c. 57.
enforced with
respect to as-
signing or dis-
charging Ap-
prentices.

Penalty on dis-
charging Ap-
prentices with-
out the Consent
of Justices, 10l.

Indentures not
valid unless ap-
proved by Two
Justices.

Penalties may
be recovered by
Information, &c.

Justices em-
powered to dis-
pose of Penal-
ties.

Recovery of
Penalties.

No. XVI.
56 Geo. III.
c. 139.

the offender's goods and chattels by warrant under the hands and seals of the justices before whom such offender shall have been convicted, or of any other two justices of the peace of the same county or district; and for want of such distress such offender shall be committed to the common gaol or house of correction for any period not less than one nor more than six months, to be appointed by the justices before whom such offender shall be convicted.

XV. And be it further enacted, That the conviction of all offences against this Act shall be in the form following; (that is to say),

Form of Con-
viction.

' **B**E it Remembered, That on the _____ day of _____
' _____ in the year of our Lord _____ is convicted
' before us _____ of his Majesty's Justices of the
' Peace for the county of _____ upon the information of
' _____ for that [here state the Offence] con-
' trary to the form of the Statute passed in the fifty-sixth of the reign
' of his Majesty King George the Third, intituled *An Act to regulate the*
' *binding of Parish Apprentices*; and for which offence we do adjudge that
' the said _____ shall forfeit and pay the sum of _____
' _____ to be paid and applied as follows [here state the Applica-
' *tion of the Penalty*]; and in case such penalty shall not be paid by the
' said _____ or levied by distress upon
' goods and chattels, within _____ days from the date of this con-
' viction, we adjudge that the said _____ shall be im-
' prisoned in _____ for the space of _____
' _____ Given under our hands and seals the day and year first
' above mentioned.'

Persons not pay-
ing Penalty may
be imprisoned.

XVI. And be it further enacted, That in case any person convicted for any offence against this Act shall not pay the penalty imposed by such conviction within one calendar month next after such conviction shall take place, it shall be lawful to and for the justices making such conviction, or for any two other justices of the county or district, to issue their warrant for the apprehending and imprisoning of such offender, notwithstanding such offender may have goods or chattels whereby such penalty might have been levied.

Power of Ap-
peal.

XVII. And be it further enacted, That any person or persons who shall be dissatisfied with any act done by any justice or justices of the peace in the execution of this Act, may appeal against the same to any court or general or quarter sessions to be holden for the county within which such act shall have been done, within three calendar months after the fact so complained of, upon giving notice in writing to such justice or justices, and also to the person or persons who shall be interested in such appeal, within twenty-one days next after the act so appealed against shall have taken place; and in case such appeal shall be against any conviction, entering into a recognisance with two sufficient sureties, before any justice of the peace of the county or district within which such conviction shall have taken place, to appear at such general or quarter sessions to abide the judgment of the court upon such appeal, and to pay the costs which may be awarded thereon; and that it shall and may be lawful to and for the justices at such sessions to hear and determine the matter of such appeal, and to award costs therein as they in their discretion shall think fit; and all such appeals shall be to the sessions of the county within which the act appealed against shall have taken place, and not to any district or liberty within the same.

Power of Over-
seers extended
to Churchwar-
dens.

XVIII. And be it further enacted, That the provisions and penalties herein contained respecting overseers of the poor shall be deemed to extend to all churchwardens having the power and authority of overseers of the poor; and that all the provisions herein mentioned and contained respecting any parish or place shall extend to any incorporated or other district for the maintenance of the poor; and that the officers of any such district having power to bind apprentices, shall be subject to all the rules regulations and penalties herein mentioned and contained respect-
ing overseers of the poor.

[No. XVII.] 1 & 2 Geo. IV. c. 32.—An Act for declaring valid certain Indentures of Apprenticeship and Certificates of Settlements of poor Persons in *England*.—[28th May 1821.]

No. XVIII.

4 Geo. IV.
c. 29.

WHEREAS in divers parishes, townships, hamlets, chapelries, and places in *England* for a long period of time only one churchwarden or chapelwarden has been annually appointed where two or more churchwardens or chapelwardens had formerly been appointed for each of such parishes, townships, hamlets, chapelries, or places: And whereas divers indentures for the binding of parish apprentices and certificates of the settlements of poor persons, which may have been executed and signed by such single churchwarden or chapelwarden acting in and for a parish, township, hamlet, or place, for which formerly two or more churchwardens or chapelwardens had been appointed, may on that account if contested in a court of law be deemed to be null and void: And whereas much litigation has recently arisen between parishes owing to the discovery of such defect as above-mentioned in the appointment of churchwardens and chapelwardens; and it would tend to prevent future litigation if such indentures and certificates as before-mentioned were in certain cases declared to be valid and effectual: May it therefore please your Majesty that it may be enacted; and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That from and after the passing of this Act all indentures for the binding of parish apprentices, and certificates of the settlement or settlements of poor persons, which have been previous to the passing of this Act executed or signed by one churchwarden or chapelwarden, acting or purporting to Act in the capacity of churchwarden or churchwardens chapelwarden or chapelwardens, for any parish, township, hamlet, chapelry, or place in *England*, for which two churchwardens or chapelwardens had formerly been appointed, shall be deemed and taken to be as good and effectual to all intents and purposes as if the same indentures or certificates had been executed by one or more churchwarden or chapelwarden churchwardens or chapelwardens legally appointed; any law, statute, usage, or custom to the contrary notwithstanding.

1 & 2 Geo. IV.
c. 32.

Certain Indentures and Certificates of Settlement declared valid.

II. Provided always, and be it further enacted and declared, That nothing in this Act contained shall be construed to affect or set aside any decision or judgment made or given in any court of judicature respecting any such indentures or certificates, or to alter impeach or affect the settlement of any person for whose removal any order of justices shall have been duly made previous to the passing of this Act, or to legalize or make valid any indentures or certificates to be signed or executed, as herein-before mentioned after the passing of this Act.

Not to affect Decisions already made.

[No. XVIII.] 4 Geo. IV. c. 29.—An Act to increase the Power of Magistrates, in Cases of Apprenticeships.—[23d May 1823.]

WHEREAS by an Act made in the twentieth year of the reign of his Majesty King George the Second, intituled *An Act for the better adjusting and more easy Recovery of the Wages of certain Servants, and for the better Regulation of such Servants, and of certain Apprentices*, it is, among other things, enacted and provided, that it shall and may be lawful to and for any two or more justices of the peace, upon any complaint or application by any apprentice put out by the parish, or any other apprentice, upon whose binding out no larger a sum than five pounds of lawful British money was paid, touching or concerning any misusage, refusal of necessary provision cruelty or other ill treatment of or towards such apprentice, by his or her master or mistress, to summon such master or

20 G. 2, c. 19.

No. XVIII.

4 Geo. IV.

c. 29.

33 G. 3. c. 55.

Recited Acts to
extend to Ap-
prentices bound
out at no larger
Sum than 25*l*.

Justices may or-
der Premium to
be refunded.

mistress to appear before such justices, at a reasonable time to be named in such summons; and such justices shall and may examine into the matter of such complaint, and upon proof thereof made upon oath to their satisfaction, (whether the master or mistress be present or not, if service of the summons be also upon oath proved,) the said justices may discharge such apprentice, by warrant or certificate under their hands and seals, for which warrant or certificate no fees shall be paid; and it is also enacted, that it shall and may be lawful to and for such justices, upon application or complaint made upon oath, by any master or mistress against any such apprentice, touching or concerning any misdemeanor miscarriage or ill behaviour in such his or her service, (which oath such justices are hereby empowered to administer,) to hear examine and determine the same, and to punish the offender by commitment to the house of correction, there to remain and be corrected and held to hard labour for a reasonable time, not exceeding one calendar month, or otherwise by discharging such apprentice in manner and form before-mentioned: And whereas by another Act made in the thirty-third year of the reign of his late Majesty King George the Third, intituled *An Act to authorize Justices of the Peace to impose Fines upon Constables Overseers and other Peace and Parish Officers, for Neglect of Duty, and on Masters of Apprentices for ill Usage of such their Apprentices, and also to make Provision for the Execution of Warrants of Distress granted by Magistrates*, it is enacted, that it shall and may be lawful for any two or more of his Majesty's justices of the peace, assembled at any special or petty sessions of the peace, upon complaint made to them upon oath, by or on the behalf of any apprentice to any trade or business whatsoever, whether bound apprentice by any parish or township, or otherwise, (provided that not more than the sum of ten pounds be paid upon the binding of such apprentice), against his or her master or mistress, of any ill usage of such apprentice by such master or mistress, (such master or mistress having been duly summoned to appear and answer such charge or complaint,) to impose, upon conviction, any reasonable fine or fines not exceeding the sum of forty shillings upon such master or mistress respectively, as a punishment for such ill usage; and by warrant under the hands and seals of any two or more of such justices assembled at any such special or petty sessions as aforesaid, to direct such fine or fines, if not paid, to be levied by distress and sale of the goods and chattels of the person or persons so offending, rendering the overplus (if any) after deducting the amount of such fine or fines, and the charges of such distress and sale, to such offender or offenders: And whereas it is expedient that the provisions of the said Act should be extended to apprentices upon whose binding out a larger sum than five pounds or ten pounds respectively, as mentioned in the said Acts, was paid: Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That from and after the first day of August one thousand eight hundred and twenty-three, the provisions of the said recited Acts, so far as the same relate to apprentices, shall extend and be deemed and construed to extend to all apprentices upon whose binding out no larger a sum than twenty-five pounds of lawful British money was or shall be paid; any thing contained in the said Acts, or either of them, to the contrary thereof in anywise notwithstanding.

II. And be it further enacted, That from and after the first day of August one thousand eight hundred and twenty-three, it shall and may be lawful for any two or more of his Majesty's justices of the peace, in any case where they shall direct any apprentice or apprentices to be discharged under and by virtue of the said recited Acts or of this Act, to take into consideration the circumstances under which such apprentice or apprentices shall be so discharged, and to make an order upon the master or mistress of such apprentice or apprentices to refund all or any part of the premium or premiums which may have been or shall be paid upon the binding or placing out of such apprentice or apprentices, as such justices in their discretion shall see fit; and in case any sum or sums of

money which shall be so ordered to be refunded by such master or mistress, shall be neglected to be paid to the person or persons directed in any such order to receive the same, it shall and may be lawful for such two or more justices, in petty sessions, by warrant under their hands and seals, to levy the same upon the goods and chattels of such master or mistress, with the costs and charges of levying such distress, rendering the overplus of the sale of such goods and chattels, upon demand, to such master or mistress; and in case there shall not be sufficient goods and chattels whereon to levy the same, then it shall and may be lawful for such justices to commit such offender or offenders to the house of correction, for any time not exceeding two months, unless the sum or sums ordered to be refunded, with all costs, shall be sooner paid and satisfied.

III. And be it further enacted, That the said recited Acts and all and every the powers and provisions thereof (save and except such parts thereof as are varied altered or repealed), shall be as good valid and effectual for carrying this Act into execution as if the same had been repeated in this Act.

No. XVIII.
4 Geo. IV.
c. 29.

Recited Acts to
continue in
force, except as
herein altered.

PART VI.

CLASS III.

Banks Destroying, and other Trespasses.

P. [No. 1.] 10 Geo. II. c. 32.—An Act for continuing, &c. * * * * and for the more effectual Punishment of Persons removing any Materials used for securing Marsh or Sea Walls. * * * * (1.)

10 Geo. II.
c. 32.

Piles, Chalk,
&c., used for
the Security of
Marshes, not to
be removed,

on Forfeiture of
20*l.* to be levied
by Distress,

or Imprison-
ment for six
Months.

V. 'AND whereas it frequently happens, that many idle and disorderly persons employed in fishing boats, and others residing near the ' sea coasts, do unlawfully and maliciously cut off draw up burn and ' destroy the piles which are drove into the marsh or sea walls and banks, ' whereby the chalk and other materials used for securing the said walls ' and banks fall away, and oftentimes take away the said chalk and other ' materials used for that purpose, and thereby frequent inundations hap- ' pen to the lands lying within the said walls and banks, to the great loss ' and damage of the owners and occupiers of the said lands;' For remedy thereof, be it therefore further enacted by the authority aforesaid, That if any person or persons shall at any time or times hereafter unlawfully cut off draw up or remove and carry away any piles chalk or other materials which are or at any time hereafter shall be driven into the ground, and used for the securing any marsh or sea walls or banks, in order to prevent the lands lying within the same from being overflowed and damaged, it shall and may be lawful to and for any one or more of his Majesty's justices of the peace residing near the place where the said offence or offences shall be committed, and such justice or justices is and are hereby respectively authorized and required, upon complaint or information upon oath of such offence (which oath or oaths such justice or justices is and are hereby empowered to administer), to summon the party or parties so complained of, or to issue his or their warrant or warrants to apprehend and bring before him or them the person or persons so accused complained of or suspected; and upon his her or their appearance or neglect to appear to proceed to examine the matter of fact with which he she or they are charged, and upon due proof thereof made, either by confession of the party or parties so accused or upon the oath or oaths of one or more credible witness or witnesses to determine the same, and to convict the offender or offenders; and every person offending herein and being thereof convicted as aforesaid shall forfeit and pay the sum of twenty pounds, one moiety thereof to the informer and the other moiety to the overseer of and for the use of the poor of the parish wherein such offence shall be committed; the same to be levied by distress and sale of the offender's goods and chattels, together with the charges of such distress and sale, rendering the overplus (if any be) to the owner or owners thereof; and for want of sufficient distress the said justice or justices are hereby required to commit the person or persons convicted as aforesaid to the house of correction, there to remain and be kept at hard labour for the space of six months. (2.)

(1.) For other parts see Vol. V.

(2.) For the Statutes which render certain Acts connected with this subject Felony, vide Part V.

[No. II.] 1 Geo. IV. c. 56.—An Act for the summary Punishment, in certain Cases, of Persons wilfully or maliciously damaging or committing Trespasses on public or private Property.—[15th July 1820.]

No. II.

1 Geo. IV.
c. 56.1 Geo. IV.
c. 56.

WHEREAS it is expedient that a more summary mode than now by law exists of repressing and obtaining satisfaction for damages to buildings fences land growing crops and other real and personal property, whether of a private or public nature, by wilful and malicious trespassers and other wrongdoers should be provided; Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That from and after the passing of this Act, if any person or persons shall wilfully or maliciously do or commit any damage injury or spoil to or upon any building fence hedge gate stile guide post mile stone tree wood underwood orchard garden nursery ground crops vegetables plants land or other matter or thing growing or being thereon, or to or upon real or personal property of any nature or kind soever, and shall be thereof convicted within four calendar months next after the committing of such injury, before any justice of the peace for the county riding division city town or place where such offence shall have been committed, either by the confession of the party offending or by the oath of one or more credible witness or witnesses, or of the party aggrieved in the premises, which oath such justice is hereby empowered to administer, every person so offending and being thereof convicted as aforesaid shall forfeit and pay to the person or persons aggrieved such a sum of money as shall appear to such justice to be a reasonable satisfaction and compensation for the damage or injury or spoil so committed, not exceeding in any case the sum of five pounds, which said sum of money shall be paid to the person or persons aggrieved; but in case such conviction shall take place on the sole evidence of the party aggrieved, then and in such case such satisfaction and compensation shall be paid to the overseer or overseers of the poor of the parish township or place where the offence was committed, or if the conviction shall take place in *Ireland*, then such satisfaction and compensation shall be paid to the governor of the fever hospital or infirmary of the county city town or place where the offence shall have been committed, to be by him or them applied for the relief and maintenance of the poor thereof, or of the establishment of such fever hospital or infirmary; and in default of payment of the sum of money in which the offender or offenders shall have been so convicted as aforesaid immediately, or within such time as the justice shall appoint at the time of conviction, together with all costs charges and expences attending the conviction, such justice shall and may commit such offender or offenders to the common gaol or house of correction, there to be kept to hard labour for any time not exceeding three calendar months, unless such penalty costs and charges shall be sooner paid and satisfied: Provided always, that if any such damage injury or spoil shall have been done or committed as aforesaid to or upon any church chapel bridge building common way or other property whatsoever, whether real or personal, of a public nature or wherein any public right is concerned, it shall or may be lawful to and for any such justice to proceed against and convict the offender or offenders within the time aforesaid and in the manner aforesaid in any sum not exceeding five pounds, as to such justice shall seem just and reasonable, at the instance and upon the information of any person prosecuting such offender or offenders, and to order and direct one moiety of the sum to be paid for such offence to be paid to the person so prosecuting, and the other moiety to and for the use of the poor of the parish township or place where the offence shall have been committed; and in default of payment of the sum in which any such offender or offenders shall have been so convicted as aforesaid, together with all costs charges and expences attending such conviction as aforesaid, such justice shall and may commit such offender or offenders to the com-

Justices to award Satisfaction for wilful Damages done to Buildings, &c. or to or upon Property of any kind.

Limiting the Sum to 5*l*. Application of the Money awarded.

In default of Payment, Offenders to be committed.

In case of public Property, one Moiety to the Informer, the other to the Poor of the Parish.

No. II.

1 Geo. IV.
c. 56.Punishment of
Male Offenders
under Sixteen
Years of Age.Offenders may
be apprehended
and taken be-
fore a Justice
without any
Warrant.Form of Con-
viction.Power of Ap-
peal to the
Quarter Ses-
sions.

mon gaol or house of correction, there to be kept to hard labour for any time not exceeding three calendar months, unless such penalty costs and charges shall be sooner paid and satisfied.

II. Provided always, and be it enacted, That if any male person or persons under the age of sixteen years shall offend against any of the provisions of this Act, it shall be lawful for the justice before whom he or they shall have been convicted, in default of payment of the sum of money awarded against him or them by the said justice, together with all costs charges and expences attending such conviction, immediately, or within such time as the justice shall appoint at the time of conviction, to commit such offender or offenders to the house of correction, there to be corrected and imprisoned and kept to hard labour for any term not exceeding six weeks.

III. And for the more easy bringing of offenders against this Act to justice be it further enacted, That it shall and may be lawful to and for any constable or other peace officer, and to and for the owner or owners of any property so damaged injured or spoiled, and to and for his her or their servant or servants or other person or persons acting by or under his her or their authority, and to and for such person or persons as he she or they may call to his her or their assistance, without any warrant or other authority than by this Act, to seize apprehend and detain any person or persons who shall have actually committed or be in the act of committing any offence or offences against any of the provisions of this Act, and to take him her or them before any justice of the peace for the county city or place where the offence or offences shall be committed; and such justice is hereby empowered and required to proceed and act with respect to such offender or offenders in manner by this Act directed.

IV. And for the more easy and speedy conviction of offenders against this Act be it further enacted, That every justice of the peace before whom any person or persons shall be convicted of any offence against this Act shall and may cause the conviction to be drawn up in the following form of words or in any form of words to the same effect as the case shall happen; *videlicet*,

' **BE** it Remembered, That on the _____ day of _____
' in the year of our Lord _____ *A. B. is*
' convicted by and before me _____ one of his
' Majesty's Justices of the Peace for the county of _____ [or, riding
' division city town or place as the case may be], for that the said
' [here state the Offence and the Time and Place when and where
' the same was committed], contrary to the statute made in the first year of
' the reign of King George the Fourth, intituled *An Act* [here set forth
' the Title of this Act], and I the said Justice do hereby adjudge and deter-
' mine that the said _____ shall for his said offence forfeit and pay
' the sum of _____ lawful money of Great Britain [or, of Ireland,
' if the same offence shall be there committed], and do order that the
' same shall forthwith be paid by him [here direct the Payment according
' to the Act.] Given under my hand and seal the day and year first above
' written.'

V. And be it further enacted, That it shall and may be lawful to and for any person or persons so convicted by any justice of the peace as before mentioned of any offence or offences against this Act, to appeal to the justices of the peace assembled at the general quarter sessions or general sessions to be holden for the county riding division city town or place where such conviction shall be made next after seven days from the time of such conviction, on giving immediate notice of such appeal and of the matters thereof, and finding sufficient security to the satisfaction of such justice for prosecuting the said appeal with effect and abiding the determination of the court therein; and such justices in such general quarter sessions or general sessions shall hear and determine the matter of such appeal, and may either confirm or quash and annul the said conviction and award such costs to either party as to them the said justices shall seem just and reasonable; and the decision of the said justices

therein shall be final binding and conclusive; and no proceedings to be had or taken in pursuance of this Act shall be quashed or vacated for want of form only, or be removed by *certiorari* or any other writ or process whatsoever into any of his Majesty's courts of record at *Westminster* or elsewhere, any law or statute to the contrary thereof in anywise notwithstanding; and if upon the hearing of any such appeal the judgment of the justice before whom any appellant shall have been convicted shall be confirmed, such appellant shall forthwith pay the penalty and costs awarded to be paid by such appellant, or in default thereof shall be immediately committed by the said court to the common gaol or house of correction, there to remain for any time not exceeding six calendar months unless such penalty and costs shall be sooner paid.

VI. And be it further enacted, That nothing in this Act contained shall repeal or affect any Act or Acts now in force, whereby any person or persons may be subject to punishment for wilful and malicious acts of trespass to any property either public or private, or shall extend to any case of wilful or malicious mischief or trespass to private property in which the damage claimed shall exceed the sum of five pounds, or to any case wherein it shall appear to the satisfaction of the justice or justices before whom the complaint is made that the party trespassing acted under a fair and reasonable supposition that he had a right to do the act to the property in respect whereof the trespass was committed or alleged to have been committed, or to do or commit the act complained of; or shall have committed such trespass in hunting, or being a qualified person and having duly obtained his certificate authorising him to kill game shall have committed the injury complained of in the pursuit of any kind of game.

VII. Provided always and be it enacted, That in case any person or persons shall be convicted of any offence against this Act before any justice of the peace, on the complaint or information of any person or persons, or public or private property having been so injured damaged or spoiled, and shall have paid the penalty costs and charges under such conviction, or shall have suffered the imprisonment awarded for non-payment thereof, then and in every such case such conviction shall and may be pleaded in bar of any action suit or information that shall be commenced instituted or prosecuted for such and the same offence in any court whatsoever.

VIII. And be it further enacted, That this Act shall be in force in *England and Ireland*, and not in any other part of the United Kingdom.

No. II.

1 Geo. IV.
c. 56.

Not to affect
any Act as to
Punishment for
Trespass,
nor to extend
to Persons
claiming a
Right, &c.

Convictions under
this Act to
bar all other
Suits for the
same Offence.

Act to extend
only to *England*
and *Ireland*.

PART VI.

CLASS IV.

Bastards.

3. [No. I.] 18 Eliz. c. 3.—An Act for setting the Poor to work, and for the avoiding of Idleness.

18 Eliz. c. 3. JUSTICES of peace shall order the punishment of the mother and reputed father of a bastard, &c. A rogue shall be conveyed from constable to constable until he come to the gaol. A stock to set the poor on work shall be provided in every city and town corporate. Houses of Correction shall be assigned in every county. Lands holden in socage may during twenty years be given towards the maintenances of houses of correction and stocks for the poor. EXP.

II. Concerning bastards begotten and born out of lawful matrimony, (1.) (an offence against God's law and man's law) the said bastards being now left to be kept at the charges of the parish where they be born, to the great burden of the same parish, and in defrauding of the relief of the impotent and aged true poor of the same parish, and to the evil example and encouragement of lewd life: (2) It is ordained and enacted by the authority aforesaid, That two justices of the peace (whereof one to be of the *quorum*) in or next unto the limits where the parish church is, (2.) within

(1.) The child of a woman divorced a mens et thoro is presumed to be a bastard: *St. George's and St. Margaret's, Westminster*, 1 Salk. 123. In other cases the legitimacy of a child born of a married woman, although living separately from her husband, is presumed; but non-access may be proved: and the old notion that a child cannot be a bastard, if the parents were within the four seas, is completely exploded. The wife cannot be a witness to prove the non-access; *R. v. Reading*, 2 sess. ca. 175: but where it was stated that it appeared on the examination of the mother, and on other proof, that the husband had no access, the order was held good; as other proof must be intended legal proof: *R. v. Bedali*; And. 8. But it is very objectionable to support a judgment obtained upon evidence, some part of which is legal and other part objectionable; unless it can be distinctly ascertained that the same conclusion must have been come to if the objectionable evidence had not been given; and it is in most cases manifestly impossible to distinguish the particular impression made by any particular part of the evidence adduced in support of any given fact as detached and separate from the other evidence offered for the same purpose; and in the immediate question, the single impression of the inadmissible evidence of the wife, if believed, would necessarily be more effective than that of all other witnesses (not going to remoteness of situation excluding the possibility of access) together. Where the husband, after an absence of some years, returned a fortnight before the birth of the child, the order was held good, and *per curiam*—“Circumstances which shew a natural impossibility that the

husband could be the father of the child of which the wife is delivered, whether arising from his being under the age of puberty, or from his labouring under disability occasioned by natural infirmity, or from the length of time elapsed since his death, are grounds on which the illegitimacy of the child may be founded: that on the ground of improbability, however strong, they should not venture to proceed; but only such as shewed absolute physical impossibility: that the general presumption would prevail, except a case of plain, natural impossibility were shewn; and to establish as an exception the case of such extreme impossibility as the present could not do harm.” *R. v. Luffe*, 8 East. 193.—The exception in the above case was certainly one upon the justness of which no doubt could be entertained: but it is to be recollected that the introduction of exceptions in extreme and favourable cases is often calculated to affect the certainty and stability of a rule; and it certainly would be very inconvenient to admit of particular inquiries as to the actual fact of filiation, when the question of physical impossibility may come to be a matter of critical nicety. If a man marries a woman whom he had never before seen, at however short a period previous to the birth, the legitimacy of the child is a settled point of law, notwithstanding the impossibility of the imputed filiation.

(2.) Quære, Is this essential, or only directory: Vide *R. v. Skinn*, 1 Bott. 476. As to whether there is any authority when the child is born in an extra-parochial place: *R. v. Baker*, 1 Bott. 476.

which parish such bastard shall be born, (3.) upon examination of the cause and circumstance) (4.) shall and may by their discretion (5.) take order (6.) as well for the punishment of the mother and reputed father of such bastard child, as also for the better relief of every such parish in part or in all; (3) and shall and may likewise by like discretion take order for the keeping of every such bastard child, by charging such mother (7.) or reputed father with the payment of money weekly, or other sustentation for the relief of such child, in such wise as they shall think meet and convenient: (8.) (4) And if after the same order by them subscribed under their hands, any the said persons, viz. mother or reputed father, upon notice thereof, shall not for their part observe and perform the said order, that then every such party so making default in not performing of the said order to be committed to ward to the common gaol, (5) there to remain without bail or mainprize, except he she or they shall put in sufficient surety to perform the said order, or else personally to appear at the next general sessions of the peace to be holden in that county where such order shall be taken, (6) and also to abide such order as the said justices

No. I.
18 Eliz.
c. 3.

A Provision for the keeping of Bastards.

Further Provisions relating hereto.

(3.) There are several cases in which the settlement of bastards is in a different place from that of their birth; and no provision has been made for any order of filiation in such cases, except in the case mentioned in Stat. 35 Geo. II. c. 101. s. 6. where the birth takes place during the suspension of an order of removal. Many orders have been made in these cases, but it seems very clear that they cannot be supported; and the subject certainly requires the assistance of the legislature.

(4.) If the mother is dead, the examination before birth, under Stat. 6 Geo. III. c. 31. is evidence of the filiation; and the Court said that they had no doubt that the sessions would be of opinion that it was conclusive: *R. v. Ravenstone*, 3 T. R. 373. And the same was ruled as to the admissibility of the evidence in *Rex v. Clayton*, 3 East. 58. But why a man should be concluded as to the truth of an ex parte examination taken in his absence, upon a subject upon which there is often a great deal of falsehood, it is rather difficult to discover. Neither is it very easy to reconcile the mere admissibility of the evidence with the decisions which have taken place respecting settlements; or with the general rule, that a party shall not be affected by evidence which he had no opportunity to controvert.

(5.) The order may be made after a period of fourteen years: *R. v. Miles*, 1 sess. ca. 77.

(6.) The putative father must be summoned, unless he actually appears; but a summons by a third justice to appear before the justices making the order is sufficient: *R. v. Taylor*, Temp. Hard. 112. And if summoned it is not requisite that he should appear: *R. v. Upton Gray*, 1 Bott. 479. And it is not necessary that the summons or appearance should appear on the face of the order: *R. v. Clayton*, 3 E. 58.

(7.) An order may be made upon the mother, notwithstanding she is married before the order is made: *Ellen Taylor's case*, 3 Bur. 1681.

(8.) The order cannot direct security to be given for the performance thereof, but may be set aside as to that and confirmed as to the remainder: *Rex v. Price*, 6 T. R. 147. *Rex v. Fox*, cited *ibid*.

The following points are collected by Burn, in analysing the usual form of orders of bastardy:—

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1. The examination must be by the two justices, as well as the ordering part: *R. v. Beard*, 2 Salk. 478.—2. It is not necessary that the order should appear to be made upon the complaint of the churchwardens and overseers: *Rex v. Buckall*, 1 Barnardist. 261.—3. The sex must be stated: *R. v. England*, 1 Str. 503.—4. The places of birth must expressly appear in the adjudication; and it is not sufficient that it may be collected by inference: *R. v. Cash*, Cas. of Se. 59. *R. v. Butcher*, 1 Str. 437. *R. v. Children*, 1 Barnardist. 326. *R. v. Stanley*, Cald. 172.—5. It is not necessary to state that the child is chargeable or likely to become so; that being evident of every bastard child.—6. The order must expressly adjudge that the party did beget the child; stating that he had carnal knowledge of the mother is not sufficient: *R. v. Browne*, 2 Str. 811; nor *whereas it hath appeared to us*, &c.: *R. v. Pitts*, Doug. 661.—7. Orders were quashed for the error, in stating that the justices doth adjudge, instead of *do*; *Rex v. Weston*, 2 Lord Raymond, 1198. Anon. *ibid*.—8. The justices have no authority to adjudge that J. S. is not the father, and therefore to discharge him: *R. v. Jenkins*, 2 Str. 1050.—9. A gross sum may be ordered for money laid out before: *R. v. Odam*, 1 Salk. 624.—10. The order should be for payment so long as the child is chargeable, and not until it shall be fourteen years of age: *R. v. Barebaker*, 1 Salk. 121. 2 Salk. 278; or till it shall be able to get its living by working: 1 Vent. 210. But in *R. v. Street*, 2 Str., an order to pay till the child was nine years old; and in *R. v. Buckall*, 1 Barnardist. to pay till the age of twelve years, was held good; as there could not be any reasonable intentment that bastards would have any provision until those ages.—These two last cases seem to be rather objectionable, especially the latter; for it is very possible that a child may be able to gain a subsistence before the age of twelve years. In manufacturing districts it is a matter of constant experience that they do so at a much earlier age. Q. if the case amounts to more than a dictum?—11. The justices cannot order a sum for putting out the child apprentice: *Brown's case*, Comb. 448. Qu. *Rex v. Buckall*, *ub. supr*.

G

No. I
18 Eliz.
c. 3.

of the peace or the more part of them then and there shall take in that behalf (if they then and there shall take any;) (7) and that if at the said sessions the said justices shall take no other order, then to abide and perform the order before made as is aforesaid. [3 Car. 1. c. 4. continued until the end of the first session of the next parliament, and farther continued by 16 Car. 1. c. 4.] (9.)

(8.) The Statute 16 Charles I. continues the 'shall be made to the contrary; or, in other words, several Acts therein mentioned until other Acts makes them perpetual.

2. [No. II.] 7 James I. c. 4.—An Act for the due Execution of divers Laws and Statutes heretofore made against Rogues, Vagabonds and sturdy Beggars, and other lewd and idle Persons.*

7 James I. c. 4. VII. 'AND because great charge ariseth upon many places within this realm by reason of bastardy, besides the great dishonour of 'Almighty God,' Be it therefore enacted by the authority aforesaid, That every lewd woman which after this present session of Parliament shall have any bastard which may be chargeable to the parish, the justices of peace shall commit such lewd woman to the house of correction, there to be punished and set on work during the term of one whole year; (2) and if she shall afterwards offend again, That then to be committed to the said house of correction as aforesaid, and there to remain until she can put in good sureties for her good behaviour not to offend so again.

• At length, *infra*.

2. [No. III.] 3 Charles I. c. 4.—An Act for Continuance and Repeal of divers Statutes.

3 Charles I. c. 4. XV. BE it enacted, That *inter alia* so much of an Act made in the eighteenth year of the reign of the said late Queen Elizabeth, intituled 'An Act for the setting the poor on work and avoiding idleness,' as concerneth bastards begotten out of lawful matrimony: (2) With this, That all justices of the peace within their several limits and precincts and in their several sessions may do and execute all things concerning that part of the said statute that by justices of the peace in the several counties are by the said statute limited to be done; shall continue in force until the end of the first session of the next Parliament. (1.)

(1.) It is now established by several Cases, that, under the authority of this Act, the Sessions have original jurisdiction in Cases of Bastardy.

2. [No. IV.] 13 and 14 Charles II. c. 12.—An Act for the better Relief of the Poor of this Kingdom.

13 & 14 Char. II. c. 12. XIX. 'AND whereas the putative fathers and lewd mothers of bastard children run away out of the parish and sometimes out of the county, and leave the said bastard children upon the charge of the parish where they are born, although such putative father and mother have estates sufficient to discharge such parish; (2) Be it therefore enacted by the authority aforesaid, That it shall and may be lawful for the churchwardens and overseers for the poor of such parish where any bastard child shall be born, to take and seize so much of the goods and chattels, and receive so much of the annual rents or profits of the lands of such putative father or lewd mother, as shall be ordered by any two justices of peace as aforesaid for or towards the discharge of the parish, to be confirmed at the Sessions for the bringing up and providing for such bastard child: (3) And thereupon it shall be lawful for the sessions to make an order for the churchwardens or overseers for the poor of

such parish to dispose of the goods by sale or otherwise, or so much of them for the purposes aforesaid as the court shall think fit, and to receive the rents and profits or so much of them as shall be ordered by the sessions as aforesaid of his or her lands. (1.)

No. IV.
13 & 14
Car. II. c. 12.

(1) See the Statute post. title *Poor*. Class 27, No. 2.

[No. V.] 6 George II. c. 31.—An Act for the Relief of Parishes and other Places from such Charges as may arise from Bastard Children born within the same.

‘ WHEREAS the laws now in being are not sufficient to provide for the securing and indemnifying parishes and other places from the great charges frequently arising from children begotten and born out of lawful matrimony; For remedy thereof, be it enacted by the King’s most-excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That from and after the twenty-fourth day of June in the year of our Lord one thousand seven hundred and thirty-three, if any single woman shall be delivered of a bastard child, which shall be chargeable or likely to become chargeable to any parish or extraparochial place, or shall declare herself to be with child, and that such child is likely to be born a bastard and to be chargeable to any parish or extraparochial place, and shall in either of such cases, in an examination to be taken in writing upon oath before any one or more justice or justices of the peace of any county riding division city liberty or town corporate wherein such parish or place shall lie, charge any person with having gotten her with child, it shall and may be lawful to and for such justice or justices upon application made to him or them by the overseers of the poor of such parish, or by any one of them, or by any substantial householder of such extraparochial place, to issue out his or their warrant or warrants for the immediate apprehending such person so charged as aforesaid, and for bringing him before such justice or justices, or before any other of his Majesty’s justices of the peace of such county riding division city liberty or town corporate, and the justice or justices before whom such person shall be brought is and are hereby authorised and required to commit the person so charged as aforesaid to the common gaol or house of correction of such county riding division city liberty or town corporate, unless he shall give security to indemnify such parish or place, or shall enter into a recognisance with sufficient surety upon condition to appear at the next general quarter sessions or general sessions of the peace to be holden for such county riding division city liberty or town corporate, and to abide and perform such order or orders as shall be made in pursuance of an Act passed in the eighteenth year of the reign of her late Majesty Queen Elizabeth, concerning bastards begotten and born out of lawful matrimony.

6 Geo. II. c. 31.

After 24th June 1733, the Person charged on Oath of being the Father of a Bastard Child,

may be immediately apprehended,

and committed to Prison, unless he give Security.

18 Eliz. c. 3.

II. Provided nevertheless and be it enacted by the authority aforesaid, That if the woman so charging any person as aforesaid shall happen to die or be married before she shall be delivered, or if she shall miscarry of such child, or shall appear not to have been with child at the time of her examination, then and in any of the said cases such person shall be discharged from his recognisance at the next general quarter sessions or general sessions of the peace to be holden for such county riding division city liberty or town corporate, or immediately released out of custody by warrant under the hand and seal or hands and seals of any one or more justice or justices of the peace residing in or near the limits where such parish or place shall lie.

Such Person on the Woman’s Miscarriage, &c. shall be discharged.

III. Provided also, and be it enacted by the authority aforesaid, That upon application made by any person who shall be committed to any gaol or house of correction by virtue of this Act, or by any person on his behalf, to any justice or justices residing in or near the limits where such parish or place shall lie, such justice or justices is and are hereby authorised and required to summon the overseer or overseers of the poor of such parish, or one or more of the substantial householders of such extraparochial

The Justices, on Prisoner’s Request, may summon the Overseers, &c.

No. V.
6 Geo. II.
c. 31.

and if no Order
be made within
six Weeks after

The Woman
not to be exam-
ined relating
to her Pregnan-
cy till one
Month after her
Delivery.

place, to appear before him or them at a time and place to be mentioned in such summons, to shew cause why such person should not be discharged; and if no order shall appear to have been made in pursuance of the said Act of the eighteenth year of the reign of her late Majesty Queen Elizabeth, within six weeks after such woman shall have been delivered, such justice or justices shall and may discharge him from his imprisonment in such gaol or house of correction to which he shall have been committed. the Woman's Delivery, Prisoner to be set at Liberty.

IV. Provided always, and be it further enacted by the authority aforesaid, that it shall not be lawful for any justice or justices of the peace to send for any woman whatsoever before she shall be delivered and one month after, in order to her being examined concerning her pregnancy or supposed pregnancy, or to compel any woman before she shall be delivered to answer to any questions relating to her pregnancy; (1.) any law usage or custom to the contrary notwithstanding.

(1.) 1. One who is de facto guardian of the poor of a parish united with other parishes under the Stat. 22 Geo. III. c. 83. for the better relief and employment of the poor, and who is received and acknowledged by the parish as guardian, though not legally appointed under the statute, is yet competent to apply in that character to a justice of the peace to take the examination of a single woman with child, in order to filiate the bastard; which by the Stat. 6 Geo. II. c. 31. s. 1. is directed to be made upon application by the overseers of the poor, in whose place such guardian is appointed, and he is also competent to apply to the justice for a summons against a reputed father for not obeying an order of bastardy; which by Stat. 49 Geo. III. c. 68. s. 3. is directed to be made upon complaint by any one of the overseers of the poor. And though the latter Statute direct the Magistrate, upon such complaint and proof upon oath of the order for payment of maintenance, and non-payment thereof, to issue his warrant to apprehend the reputed father, yet it is proper for the Justice to issue a summons in the first instance to the party charged to attend and shew cause, &c. *Rex v. St. Martyr*, (Inhab.) 13 E. R. 55.—2. The examination of a pregnant woman, taken before a justice of peace under Stat. Geo. II. c. 31. is admissible evidence on an application to the quarter sessions to make an order of filiation on the putative father, if the woman die before such application is made; and if not contradicted ought to be conclusive. *Rex v. Ravenstone*, (Inhab.) 5 T. R. 373.—3. An order of bastardy may be made after the death of the woman, upon her examination when taken pregnant, under Stat. 6 Geo. II. c. 31. *Rex v. Ravenstone*, (Inhab.) 5 T. R. 373.—4. If a person be bound by a recognisance by one Magistrate under 6 Geo. II. c. 31. to appear at the next sessions and perform such order as shall there be made on him, under the 18 Eliz. c. 3. respecting bastards, the sessions can only make an order of bastardy on him, but cannot order him also to give security for the performance of that order. *Rex v. Price*, 6 T. R. 147.—5. Where the putative father of a bastard child gave a voluntary bond, and not under the compulsion of Stat. 6 Geo. II. c. 31. to the parish officers, conditioned for the payment of a sum certain every three months until the child should be deemed capable of providing for herself: Held: that such bond was good and the

condition sufficiently certain. *Middleham v. Bellerby*, 1 M. & S. 310.—6. A soldier in actual service may be committed to prison for want of sureties under Stat. 6 Geo. II. c. 31. for being the father of a bastard child. *Rex v. Archer*, 2 T. R. 270. *Rex v. Bower*, 5 T. R. 156.—7. The Statute 6 Geo. II. c. 31. only authorises parish officers to take security from the putative father of a bastard child to indemnify the parish: therefore where they had taken a promissory note absolute for a sum certain, to which there was a plea of tender of a lesser sum as the amount of the damage actually sustained by the parish, the issue upon which was found for the defendant: Held: that the plaintiffs could not recover more. *Cole v. Gower*, 6 E. R. 110. And see the Overseers of St. Martin in the Fields v. Warren, 1 B. & A. 491.—8. Every reasonable intendment will be made in favour of an order of justices. Therefore where an order of bastardy, reciting that it had appeared to the justices on the oath of R. T. that the said Mary Cole (referring to the title in which she was named as Mary Cole deceased) was delivered of a bastard child, &c.; and further, that upon the examination of the said M. C. taken on oath, &c. dated, &c. in the presence of the said R. T., the said M. C. upon her oath charged the defendant with being the father, &c. adjudged that therefore upon examination of the cause and circumstances of the premises, as well on the oath of the said M. C. before birth so taken, and also upon the oath of the said R. T. that the defendant was the father, and that he should pay so much, &c.; the Court will intend (especially after appeal confirming the order) that M. C. was dead at the time of the order made, and that her examination on oath before taken in writing under the Stat. 6 Geo. II. c. 31. was verified on oath of R. T. before the Magistrates making the order; which examination is sufficient after the death of the mother to warrant a subsequent order of filiation. *Rex v. Clayton*, 3 E. R. 58.—9. An order filiating the child of a married woman is good; though it only states that such child was likely to become chargeable; which are the words of the Stat. 6 Geo. II. c. 31. s. 1. as applied to the bastards of single women; for upon that Statute as well as the Stat. 18 Eliz. c. 3. which has the words, born out of lawful matrimony, the only question is, whether the child be by law a bastard. 8 E. R. 193.

[No. VI.] 49 Geo. III. c. 68.—An Act to explain and amend the Law of Bastardy, so far as relates to indemnifying Parishes in respect thereof.—[3rd June 1809.]

No. VI.
49 Geo. III.
c. 68.

‘ WHEREAS the provisions of an Act made in the eighteenth year of the reign of Queen *Elizabeth*, concerning bastards begotten and born out of lawful matrimony, are found to be inadequate to the purposes of indemnifying parishes against the charges and expences incurred by the apprehending and securing the reputed father, and also by the obtaining the order of filiation : And whereas it is expedient that such charges and expences should be borne and discharged by the adjudged reputed father of such bastard child or children, at the discretion of the justices by whom such adjudication shall be made either in the court of quarter sessions or otherwise, not exceeding the amount herein after mentioned : Be it therefore enacted by the King’s most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That every person who shall hereafter be adjudged to be the reputed father of any bastard child or children shall be chargeable with and liable to the payment of all reasonable charges and expences incident to the birth of such bastard child or children, and also to the payment of the reasonable costs of apprehending and securing such reputed father, and also to the payment of the costs of the order of filiation, such costs of apprehending and securing the reputed father and of the order of filiation not to exceed the sum of ten pounds; and all such charges expences and costs shall be duly and respectively ascertained on oath before the justices of the peace or the court of quarter sessions making such order of filiation, which oath such justices or court are hereby respectively empowered to administer.

49 George III.
c. 68.

18 Elis. c. 3.

Reputed Father of a Bastard shall be chargeable with Expences incident to the Birth, and with Costs of his own Apprehension and of the Order of Filiation.

II. And be it further enacted, That if any single woman shall declare herself to be with child, and that such child is likely to be born a bastard and to be chargeable to any parish township or extraparochial place, and shall in an examination to be taken in writing upon oath before any justice of the peace of any county riding division city liberty or town corporate wherein such parish township or place shall lie, charge any person with having gotten her with child, it shall be lawful to and for such justice upon application made to him by the overseer of the poor of such parish or township, or by any substantial householder of such extraparochial place, to issue out his warrant for the immediate apprehending of such person so charged as aforesaid, and for bringing him before such justice or before any other justice of the peace of such county riding division liberty or town corporate; and the justice before whom such person shall be brought, having authority in this behalf, is hereby authorised and required to commit the person so charged as aforesaid to the common gaol or house of correction of such county riding division liberty or town corporate, unless he shall give security to indemnify such parish or place or shall enter into a recognisance with sufficient surety or sureties upon condition to appear at the next general quarter sessions or general sessions of the peace to be holden for such county riding division city liberty or town corporate, to abide and perform such order or orders as shall then be made (1.) in pursuance of the said Act of the eighteenth year of the reign of Queen *Elizabeth*, unless one such justice as aforesaid shall have certified in writing under his hand to such general quarter sessions or general sessions of the peace, that it had been proved before him upon the oath of one credible witness that such single woman had not been then delivered or had been delivered within one month only previous to the day on which such general quarter sessions or general sessions of the peace shall be holden, or unless two justices of the peace of

Men charged on Oath by Women likely to be delivered of Bastards, may be apprehended by Warrant of a Justice and compelled to give Security to indemnify the Parish, or to abide the Order of Sessions, under 18 Elis. c. 3.

(1.) There was an oversight in the introduction of the word THEN, which confines the Condition of the Recognisance to Orders made at the Sessions. The Recognisance directed by Stat.

6 Geo. II. was general, to abide such Order as should be made in pursuance of the Statute of Elizabeth, and which of course extended to Orders made by Justices out of Sessions.

No. VI.
49 Geo. III.
c. 68.

such county riding division city liberty or town corporate shall have certified in writing under their hands to the next, or where such woman shall not have been delivered as aforesaid then to the immediately subsequent general quarter sessions or general sessions of the peace that an order of filiation had been already made on the person so charged, or that such order was not then requisite to be made on account of the death of the child born a bastard, or for other like sufficient reason; in each of which cases firstly before mentioned it shall be lawful for the justices assembled at such general quarter sessions or general sessions of the peace to respite such recognisance to the then next general quarter sessions or general sessions of the peace to be holden for such county riding division city or town corporate, without requiring the personal attendance of the putative father so bound or of that of his surety or sureties, and in either of the said two last-mentioned cases it shall be lawful for the justices assembled as aforesaid wholly to discharge such recognisance.

For Maintenance of Bastard Children.

Father or Mother neglecting to pay for Maintenance of Bastard according to Order, may be apprehended and committed by one Justice for Three Months, or till Payment.

III. 'And whereas parishes are often put to great expence in enforcing the performance of orders of maintenance made on the filiation of bastard children; Be it therefore further enacted, That if any reputed father or any mother of such bastard child or children on whom any order of filiation or maintenance of such child or children shall have been made by the court of quarter sessions, or which shall have been made by two justices of the peace and confirmed by the court of quarter sessions, or against which no appeal shall have been made to the court of quarter sessions, shall neglect or refuse to pay any sum or sums of money which he or she shall have been ordered to pay towards the maintenance or other sustentation for the relief of any such bastard child or children by any such order, it shall be lawful for any justice of the peace of the county riding division city liberty or town corporate in which such reputed father or such mother shall happen to be, and the said justice is hereby required upon complaint made to him by any one of the overseers of the poor of any parish township or place liable to the maintenance or support of such bastard child or children or where such bastard child or children shall then be, and upon proof on oath of such order for the payment of such sum or sums of money and of such sum or sums of money being unpaid and of a demand of such payment having been made and a refusal to pay the same, or that such reputed father or such mother hath left his or her usual place of abode and hath avoided a demand thereof being made by such overseer, to issue his warrant to apprehend such reputed father or such mother and to bring him or her before such justice or any other justice of the peace of the same county riding division city liberty or town corporate to answer such complaint; and if such reputed father or such mother shall not pay such sum or sums of money as shall appear to the said justice before whom such reputed father or such mother shall be brought to be due and unpaid, or shall not shew to such justice some reasonable and sufficient cause for not so doing, it shall be lawful for such justice and the said justice is hereby required to commit such reputed father or such mother to the publick house of correction or common gaol of the said county, to be there kept to hard labour for the space of three months, unless such reputed father or such mother shall before the expiration of the said three months pay or cause to be paid to one of the overseers of the poor of the parish township or place on whose behalf such complaint as aforesaid was made the said sum or sums of money so due and unpaid as aforesaid, and so from time to time and as often as such reputed father or such mother shall in manner aforesaid neglect or refuse to pay any other sum or sums of money that shall afterwards become due by virtue of and under such order after the expiration of or discharge from any such former imprisonment as aforesaid.

Expences and Costs subject to the Discretion of Justices or Sessions, and recoverable as under 18 Eliz. c. 3.

IV. Provided always, and be it further enacted, That all such charges expences and costs shall be wholly subject to the discretion of the justices or court of quarter sessions who shall make such order of filiation; and the justices or court of sessions are hereby authorised if they shall

see fit to allow and order payment of the whole or any part thereof: Provided always, That the costs of apprehending and securing the reputed father and of the order of filiation shall not in any case exceed the sum of ten pounds; and for securing the due payment of the same after such allowance and order as aforesaid, all and every the powers authorities provisions clauses matters and things contained in the said Act passed in the eighteenth year of the reign of Queen *Elizabeth* concerning bastards begotten and born out of lawful matrimony shall be respectively observed used and practised in the execution of this Act, and shall be construed deemed and taken to apply as fully and effectually to all intents and purposes as if the said powers authorities provisions clauses matters and things were specially recited and re-enacted in this Act.

V. Provided also, and be it further enacted, That any person or persons who shall think himself or themselves aggrieved by any order made by such justices as aforesaid under the provisions of this Act, and not originating in the quarter sessions, may appeal to the next general quarter sessions of the peace to be holden for the county where such order shall be made, on giving notice to such justices or to one of them, and also to the churchwardens and overseers of the poor of the parish on whose behalf such order shall have been made or to one of them, ten clear days before such general quarter sessions of the peace at which such appeal shall be made of his her or their intention of bringing such appeal and of the cause and matter thereof, and entering into a recognisance within three days after such notice before some justice of the peace for such county with sufficient surety conditioned to try such appeal and abide the judgment and order of and pay such costs as shall be awarded by the justices at such quarter sessions, which said justices at their said sessions, upon proof of such notice being given and of entering into such recognisance as aforesaid, shall and they are hereby required to proceed in hear and determine the causes and matters of all such appeals and shall give such relief and costs to the parties appealing or appealed against as they in their discretion shall judge proper; and such judgments and orders therein made shall be final binding and conclusive to all parties concerned and to all intents and purposes whatsoever.

VI. And be it further enacted, That so much of an Act passed in the sixth year of the reign of his late Majesty King *George* the Second, intituled "An Act for the Relief of Parishes and other Places from such Charges as may arise from Bastard Children born within the same," as authorises the justice or justices before whom the reputed father of a bastard child shall be brought, in cases where the woman has not been delivered, to commit such reputed father to the common gaol or house of correction unless he shall give security to indemnify the parish or place or shall enter into a recognisance with sufficient surety upon condition to appear at the next general quarter sessions or general sessions of the peace, shall be and is hereby repealed.

VII. And be it further enacted, That from and after the passing of this Act no appeal in any case relating to bastardy shall be brought received or heard at the said quarter sessions unless such notice shall have been given and such recognisance shall have been entered into in manner aforesaid according to the provisions of this Act.

"Commencement of Act, 20th July 1809. § 8."

No. VI.
49 Geo. III.
c. 68.

Appeal to the
Quarter Ses-
sions, on giving
Notice and en-
tering into Re-
cognisance.

So much of
6 Geo. 2. c. 31.
§ 1, 2, as autho-
rizes Justices to
commit reputed
Father before
Birth of Bastard,
repealed.

No future Ap-
peal without
Notice.
[See § 5.]

[No. VII.] 50 Geo. III. c. 51.—An Act to repeal so much of an Act, passed in the Seventh Year of King *James* the First, as relates to the Punishment of Women delivered of Bastard Children; and to make other Provisions in lieu thereof.—[9th June 1810.]

WHEREAS an Act was passed in the seventh year of the reign of his late Majesty King *James* the First, intituled, *An Act for the due Execution of divers Laws and Statutes heretofore made against Rogues Vagabonds and Sturdy Beggars and other Lewd and Idle Persons*:—And whereas

50 Geo. III.
c. 51.
7 Jac. I. c. 4.

No. VII.
50 Geo. III.
c. 51.

So much of re-
cited Act as re-
lates to the
Commitment of
Women for
having Bastard
Children re-
pealed.

Limitation of
Punishment.

Justices may
mitigate Con-
finement and
discharge.

No Woman to
be committed
till a certain
Period.

it is among other things directed and enacted, that every lewd woman who after the then present session of Parliament should have any bastard which might be chargeable to the parish should be committed to the house of correction, there to be punished and set on work during the term of one whole year; and that if such woman should offend again in like manner, she should be committed to the house of correction, there to remain until she should put in good securities not to offend so again: And whereas the punishment aforesaid, if rigorously inflicted, might be too severe and might subject the offender to imprisonment for life: May it therefore please your Majesty that it may be enacted; and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the Authority of the same, That so much of the said recited Act passed in the seventh year of his late Majesty King James the First, as relates to the commitment of women to the house of correction, there to be punished and set on work for having bastard children who may be chargeable to the parish, shall be and the same is hereby repealed.

II. And be it further enacted, That from and after the passing of this Act, in cases when a woman shall have a bastard child which may be chargeable to the parish, it shall be lawful for any two justices of the peace before whom such woman shall be brought and they shall or may at their discretion commit such woman to the house of correction for the district or place, and there to be set on work for any time not exceeding twelve calendar months nor less than six weeks.

III. And be it further enacted, That it shall be lawful for any two justices of the peace at any petty session for the division wherein the parish to which such bastard child may be chargeable is situate, upon their own knowledge or a certificate duly authenticated from the keeper of such house of correction in which such woman shall have been confined for any space not less than six weeks of the good behaviour of such woman during such her confinement and of the reasonable expectation of her reformation, by warrant under their hands and seals to order such woman to be immediately (or at the time to be appointed in such warrant) discharged and released from further confinement.

IV. Provided always and be it further enacted, That nothing in this Act contained shall extend or be construed to extend to authorize any justices of the peace to commit any such woman to the house of correction until she shall have been delivered for the space of one calendar month,

PART VI.

CLASS V.

Bent.

[No. I.] 15 George II. c. 33.—An Act to revive several Acts, * * * * and for the more effectual preventing the cutting of *Star or Bent*.

3.

VI. 'AND whereas upon the north-west coasts of this kingdom and especially in the county palatine of *Lancaster* the sea is bounded and the adjacent lands are prevented from being overflowed by large sand hills which are composed of such loose sand that in dry weather when any violent strong west winds happen to blow the same is carried away and thrown upon the adjacent lands, not only to the damage thereof but also to the great terror and danger of the inhabitants, who are thereby exposed to the inundation of the sea: And whereas it has been found by experience that the best way to preserve the said hills from being blown away as aforesaid is to plant them with a certain rush or shrub called *star or bent*, which proves an effectual method for keeping the same firm and solid, and which the owners of the said lands are at great costs and charges in yearly setting and planting for that purpose: And whereas it frequently happens that many idle and disorderly persons residing near the said coasts do unlawfully and maliciously in the night-time as well as by day cut pull up and carry away the *star or bent* so planted as aforesaid, and instead of working in an honest manner for the maintenance and support of their families do privately sell and dispose of the said *star or bent* for making of mats brushes and brooms or besoms, and thereby the said hills are rendered so loose and open that the same are often blown upon the adjacent lands, which are covered over therewith in such manner as to destroy the corn grass and herbage thereof and expose the same to inundations to the great loss and damage of the owners and occupiers of the said lands: For remedy whereof, be it enacted by the authority aforesaid, That if any person or persons shall at any time or times from and after the twenty-ninth day of September one thousand seven hundred and forty-two by day or night, without the consent of the lord or owner of such *star or bent* hills, cut pull up or carry away any *star or bent* which already is or at any time or times hereafter shall be planted or set on the said hills or banks on the north-west coasts of *England* in order to preserve and to prevent the same from being blown upon the said adjacent lands, it shall and may be lawful to and for any one or more of his Majesty's justices of the peace of the county riding city town corporate liberty or division where such *star or bent* shall be cut pulled up or carried away, and such justice or justices is and are hereby empowered upon complaint or information upon oath made of such offence (which oath such justice or justices is and are hereby authorized to administer) to summon the party or parties so complained of, and in default of appearance thereon to issue out his or their warrant or warrants to apprehend and bring before him or them the person or persons so accused or complained of; and upon proof thereof made, either by confession of the party or parties so accused or upon the oath of one or more credible witness or witnesses, to convict the offender or offenders; and every person so offending and being thereof convicted as aforesaid shall forfeit and pay the sum of twenty shillings; one moiety thereof to the

15 George II.
c. 33.

Penalty for
cutting *Star or
Bent* from the
Sand-hills.

No. I.

15 Geo. II.
c. 33.

Penalty on second Offence.

Penalty on having Star or Bent in Custody.

Proviso.

informer and the other moiety to the lord or owner of such star bent or sand-hills; the same to be levied by distress and sale of the offender's goods and chattels by warrant under the hands and seals of such justice or justices together with the charges of such distress and sale, rendering the overplus if any be to the owner or owners thereof; and for want of sufficient distress the said justice or justices are hereby required to commit the person or persons so convicted as aforesaid to the house of correction, there to remain and be kept to hard labour for the space of three months; and if any person or persons so convicted shall afterwards be guilty of a second offence and thereof lawfully convicted by such justice or justices, either by confession of the party or parties or upon the oath of one or more credible witness or witnesses, such person or persons shall be committed to the house of correction for the space of one year, there to be whipt and kept to hard labour.

VII. And be it further enacted by the authority aforesaid, That if any star or bent shall be found in the custody or possession of any person or persons within five miles of any such star bent or sand-hills as aforesaid, such person or persons being convicted thereof before one or more justice or justices in manner aforesaid, shall be deemed adjudged and taken to be the cutter and puller of such star or bent from such sand-hills, and shall forfeit and pay the sum of twenty shillings; one moiety thereof to the lord or owner of such star bent or sand-hills, the same to be levied in manner aforesaid by distress and sale of the offender's goods and chattels, together with the charges of such distress and sale, rendering the overplus if any to the owner or owners thereof; and for want of sufficient distress such person or persons shall be committed in manner aforesaid to the house of correction, there to remain and be kept to hard labour for the space of three months.

VIII. Provided always, That nothing in this Act contained shall extend or be construed to extend to prohibit or restrain any person or persons from the exercise or enjoyment of any ancient prescriptive right to cut star or bent upon the sea coasts in the county of *Cumberland*.

PART VI.

CLASS V. a.

Bread.

[No. I.] 1 & 2 Geo. IV. c. 50.—An Act to alter and amend an Act made in the Fifty-ninth Year of the Reign of his late Majesty King George the Third, intituled *An Act to regulate the Making and Sale of Bread out of the City of London and the Liberties thereof, and beyond the Weekly Bills of Mortality and Ten Miles of the Royal Exchange, where no Assize is set; and for establishing other Provisions and Regulations relative thereto.*—[8th June 1821.]

WHEREAS an Act was passed in the fifty-ninth year of the reign of his late Majesty King George the Third, intituled *An Act to repeal certain Acts now in force for regulating the Making and Sale of Bread out of the City of London and the Liberties thereof, and beyond the Weekly Bills of Mortality and Ten Miles of the Royal Exchange, where no Assize is set; and for establishing other Provisions and Regulations relative thereto:* And whereas it is deemed expedient that the said recited Act, so far as the same relates to the weight of bread and to the punishment of bakers or sellers of bread who shall sell the same deficient in its due weight, should be repealed, and that more effectual provisions should be established for punishing persons who shall adulterate meal flour or bread: But as such beneficial purposes cannot be effected without the aid and authority of Parliament, may it therefore please your Majesty that it may be enacted; and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That the said recited Act, so far as the same relates to the weight of bread and to the punishment of bakers or sellers of bread who shall sell the same deficient in its due weight, be and the same is hereby repealed.

1 & 2 Geo. IV.
c. 50.
59 Geo. 3: c. 36.

Certain Parts of
recited Act repealed.

II. And be it further enacted, That it shall be lawful for any person or persons whomsoever out of the city of London and the liberties thereof and beyond the weekly bills of mortality and ten miles of the *Royal Exchange* to make bake sell and expose for sale any bread made of flour or meal of wheat barley rye oats buckwheat Indian corn peas beans rice and every other kind of grain whatsoever and potatoes or any of them, and with any common salt pure water eggs milk yeast harm leven and potatoe yeast, and mixed in such proportions as the makers or sellers of bread shall think fit; any law usage or custom to the contrary in anywise notwithstanding.

Directing with
what Materials
Bread may be
made and sold.

III. And be it further enacted, That although no assize of bread shall be set in pursuance of an Act passed in the fifty-third year of the reign of his late Majesty, intituled *An Act to alter and amend two Acts of the Thirty-first Year of King George the Second, and the Thirtieth Year of his late Majesty, so far as relates to the Price and Assize of Bread to be sold out of the City of London and the Liberties thereof, and beyond the Weekly Bills of Mortality and Ten Miles of the Royal Exchange; no loaf or loaves of bread called or deemed assize loaf or loaves in the tables of*

Assize Bread
and Priced
Bread not to be
made at the
same Time in
the same Place

No. I.
1 & 2
Geo. IV.
c. 50.

the assize and price of bread annexed to the said last-mentioned Act and referred to, and the weight of which varies according to the variation in the price of grain, shall be made for sale sold or carried out for sale or be offered or exposed to or for sale or be allowed to be sold, where any loaf or loaves of the bread called or deemed priced loaf or loaves in the tables of the assize and price of bread in and by the said Act of the fifty-third year of the reign of his late Majesty enacted and referred to, and the price of which varies according to the variation in the price of grain, shall at the same time be made for sale or be allowed to be sold; (that is to say), no assize loaves of the price of three pence and priced loaves called quartern loaves; nor assize loaves of the price of six pence and priced loaves called quartern loaves; nor assize loaves of the price of twelve pence and priced loaves called half-peck loaves; nor assize loaves of the price of eighteen pence and priced loaves called peck loaves, shall at the same time be made for sale sold or carried out for sale or be offered or exposed to or for sale, or allowed to be sold by any baker or other seller of bread in his her or their shop dwelling house or premises, that unwary persons may not be imposed upon and injured by buying assize loaves referred to in the said tables as or for priced loaves so referred to in the said tables, or by buying such priced loaves as or for such assize loaves; and every person who shall offend therein, and be convicted of any such offence in manner herein-after mentioned, shall for every such offence forfeit and pay a sum not exceeding forty shillings nor less than ten shillings, as the magistrate or magistrates justice or justices before whom any such offender or offenders shall be convicted shall from time to time adjudge and determine.

Penalty.

Bakers not to
use Alum, &c.
in making of
Bread for Sale.

IV. And be it further enacted, That no person or persons making or who shall make bread for sale out of the city of *London* and the liberties thereof, and beyond the weekly bills of mortality and ten miles of the *Royal Exchange*, nor any journeyman or other servant of any such person or persons as last mentioned, shall at any time or times in the making of bread for sale put any alum or preparation or mixture in which alum shall be an ingredient or any other preparation or mixture in lieu of alum into the dough of such bread, or in anywise use or cause to be used any alum or any other unwholesome mixture ingredient or thing whatsoever in the making of such bread, or on any account or under any colour or pretence whatsoever, upon pain that every such person whether master or journeyman or other person, who shall knowingly offend in the premises and shall be convicted of any such offence, either by his her or their own confession, or upon the oath (or, being of the people called *Quakers*, affirmation) of one or more witness or witnesses, shall on every such conviction forfeit and pay any sum of money not exceeding twenty pounds nor less than five pounds, or in default of payment thereof shall by warrant under the hand and seal or hands and seals of the magistrate or magistrates justice or justices before whom such offender shall be convicted, be committed to the house of correction or some prison of the city county borough or place where the offence shall have been committed or the offender or offenders shall be apprehended, there to remain for any time not exceeding twelve nor less than three calendar months from the time of such commitment, unless such penalty shall be sooner paid as any such magistrate or magistrates justice or justices shall think fit to order and direct; and it shall be lawful for the magistrate or magistrates justice or justices before whom any such offender shall be convicted, to cause the offender's name place of abode and offence to be published in some newspaper which shall be printed published or circulated in or near the county division riding or district where the offence shall be committed, and to defray the expence of publishing the same out of the money to be forfeited as last mentioned, if any shall be paid or recovered.

Penalty.

Adulterating
Corn, Meal, or
Flour, &c.

V. And be it further enacted, That no person shall knowingly put into corn meal or flour which shall be ground dressed bolted or manufactured for sale out of the said city of *London* and the liberties thereof, and

purity or wholesomeness of any meal flour dough or bread, or shall wilfully oppose or resist any such search being made, or the carrying away any such alum or other ingredient or mixture as aforesaid, or any meal flour dough or bread which shall be seized as being adulterated, or as not being made pursuant to this Act, he she or they so doing or offending in any of the cases last aforesaid shall for every such offence, on being convicted thereof, forfeit and pay such sum not exceeding five pounds nor less than fifty shillings, as the magistrate or magistrates justice or justices before whom such offender or offenders shall be convicted shall think fit and order and direct.

X. And be it further enacted, That every baker and seller of bread shall cause to be fixed in some convenient part of his or her shop a beam and scales with proper weights, in order that every person or persons who may purchase any bread of any such baker or seller of bread may, if he she or they shall think proper, require the same to be weighed in his her or their presence; and that if any baker or seller of bread out of the city of London and the liberties thereof, and beyond the weekly bills of mortality and ten miles of the *Royal Exchange*, shall neglect to fix such beam and scales in some convenient part of his or her shop, or to provide and keep for use proper weights or whose weights shall be deficient in their due weight, or who shall refuse to weigh any bread purchased in his or her shop in the presence of the party or parties requiring the same, he she or they shall for every such offence forfeit and pay a sum not exceeding five pounds nor less than twenty shillings, as the magistrate or magistrates justice or justices before whom such offender shall be convicted shall order and direct.

XI. Provided always, and be it further enacted, That no master mistress journeyman or other person respectively exercising or employed in the trade or calling of a baker out of the city of London and the liberties thereof, and beyond the weekly bills of mortality and ten miles of the *Royal Exchange*, shall on the Lord's day commonly called *Sunday* or any part thereof make or bake any household or other bread rolls or cakes of any sort or kind, or shall on any part of the said day sell or expose to sale or permit or suffer to be sold or exposed to sale any bread rolls or cakes of any sort or kind except to travellers or in cases of urgent necessity; or bake or deliver or permit or suffer to be baked or delivered any meat pudding pie tart or victuals at any time after half-past one of the clock in the afternoon of that day, or in any other manner exercise the trade or calling of a baker or be engaged or employed in the business or occupation thereof save and except as aforesaid, and also save and except so far as may be necessary in setting and superintending the sponge to prepare the bread or dough for the following day's baking; and that no meat pudding pie tart or victuals shall be brought to or taken from any bakehouse during the time of divine service in the church parish hamlet or place where the same is situate nor within one quarter of an hour of the time of commencement thereof; and every person offending against the foregoing regulations or any one or more of them, and being thereof convicted before any magistrate or magistrates justice or justices of the peace of the city county or place where the offence shall be committed within two days from the commission thereof, either upon the view of such magistrate or magistrates justice or justices of the peace or on confession by the party or proof by one or more witness or witnesses upon oath or affirmation as aforesaid, shall for every such offence forfeit and pay and undergo the forfeiture penalty and punishment herein-after mentioned; (that is to say) for the first offence the penalty of five shillings, for the second offence the penalty of ten shillings, and for the third and every subsequent offence respectively the penalty of twenty shillings; and shall moreover on every such conviction bear and pay the costs and expences of the prosecution, such costs and expences to be assessed settled and ascertained by the magistrate or magistrates justice or justices of the peace convicting; and the amount thereof together with such part of the penalty as such magistrate or magistrates justice or justices of the peace shall think proper to the prosecutor or

No. I.

1 & 2

Geo. IV.

c. 50.

Penalty.

Bakers shall
keep proper
Weights.

Penalty.

Regulations as
to Baking on
Sundays.

No. I.
1 & 2
Geo. IV.
c. 50.



prosecutors for loss of time in instituting and following up the prosecution at a rate not exceeding three shillings *per diem*, and be paid to the prosecutor or prosecutors for his and their own use and benefit; and the residue of such penalty to be paid to such magistrate or magistrates justice or justices of the peace within seven days after his or their receipt thereof to be transmitted by him or them to the churchwardens or overseers of the parish or parishes where the offence shall be committed, to be applied for the benefit of the poor thereof; and in case the whole amount of the penalty and of the costs and expences as aforesaid be not paid within three days after the conviction of the offender or offenders, such magistrate or magistrates justice or justices of the peace shall and may by warrant under their respective hands and seals or hand and seal direct the same to be levied and raised by distress and sale of the goods and chattels of the offender or offenders, rendering the overplus if any; or in default or insufficiency of such distress to commit the offender or offenders to the house of correction on a first offence for any time not exceeding fourteen days, and on the second or any subsequent offence for any time not exceeding twenty-one days, unless the whole of the penalty costs and expences be sooner paid and discharged.

No Miller or Baker may act as Justice in the Execution of this Act.

XII. Provided always and be it further enacted, That no person who shall be concerned in the business of a miller mealman or baker corn merchant or dealer in corn or flour shall be capable of acting or shall be allowed to act as a magistrate or justice of the peace under this Act or in putting in execution any of the powers in or by this Act granted; and if any miller mealman or baker shall presume so to do he or they so offending in the premises shall for every such offence forfeit and pay the sum of fifty pounds to any person or persons who shall inform or sue for the same, to be recovered in any of his Majesty's courts of record at *Westminster* by action of debt bill plaint or information wherein no essoign wager of law or more than one imparlance shall be allowed.

All Offences against this Act may be heard in a summary way.

XIII. And for the better and more easy recovery of the several penalties and forfeitures to be incurred under this Act and the powers herein contained, be it further enacted, That it shall and may be lawful for the mayor or any alderman of any city and to and for any other of his Majesty's justices of the peace or any of them within their respective counties divisions cities towns corporate liberties or jurisdictions beyond the city of *London* and the liberties thereof, and beyond the weekly bills of mortality and ten miles of the *Royal Exchange*, to hear and determine in a summary way all offences committed against the true intent and meaning of this Act, and for that purpose to summon before them or any of them within their respective jurisdictions any party or parties accused of being an offender or offenders against the true intent and meaning of this Act; and in case the party accused shall not appear on such summons or offer some reasonable excuse for his default, then upon oath or affirmation as aforesaid by any credible witness or witnesses of any offence committed contrary to the true intent and meaning of this Act, any such magistrate or justice shall issue his warrant or warrants for apprehending the offender or offenders within the jurisdiction of any such magistrate or justice; and upon the appearance of any party or parties accused, or in case he she or they shall not appear on notice being given to or left for him her or them at his her or their usual place of abode, or if he she or they cannot be apprehended on a warrant granted against him her or them as is herein-before directed, then and in every such case any such magistrate or justice is and are hereby authorised and required to proceed to make inquiry touching the matters complained of, and to examine any witness or witnesses who shall be offered on either side on oath or affirmation as aforesaid, and which oath and affirmation every such magistrate and justice is and are hereby authorised and required to administer; and after hearing the parties who shall appear and the witnesses who shall be offered on either side, such magistrate or justice shall convict or acquit the party or parties accused; and if the penalty or money forfeited on any such conviction shall not be paid within the space of twenty-four hours after any such conviction, every such magistrate or

justice shall thereupon issue a warrant or warrants under his hand and seal directed to any peace officer or officers within their respective jurisdictions, and thereby require him or them to make distress of the goods or chattels of the offender or offenders within such their respective jurisdictions to satisfy such penalty or money forfeited and the costs of the prosecution and distress; and if any offender should convey away his goods out of the jurisdiction of any such magistrate or justice before whom he or she was convicted or so much thereof that the penalty or money forfeited cannot be levied, then some magistrate or justice within whose jurisdiction the offender shall have removed his goods shall back the warrant granted by any such magistrate or justice as aforesaid, and thereupon the penalty forfeited shall be levied on the offender's goods and chattels by distress and sale; and if within five days from the distress being taken the penalty or money forfeited and costs shall not be paid, the goods seized shall be appraised and sold, rendering the overplus (if any) after deducting the penalty or forfeitures and the costs and charges of the prosecution distress and sale to the owner or owners thereof, which charges shall be ascertained by the magistrate or magistrates justice or justices before whom any such offender or offenders shall have been so convicted, or by the magistrate or justice who backed the warrant if then alive, and if not by some other magistrate or justice of the city county division or place in which the offender shall have been convicted, on application for that purpose to be made to any such magistrate or justice; and for want of such distress then every such magistrate or justice, within whose respective jurisdiction any such offender or offenders shall reside or be, shall on the application of any prosecutor or prosecutors and proof on oath or affirmation as aforesaid made of the conviction and non-payment of the penalty and charges, by warrant under his hand and seal commit every such offender or offenders to the common gaol or house of correction of the city county division or place where such offender or offenders shall be found, there to remain for the space of two calendar months from the time of such commitment, unless after such commitment payment shall be made of the said penalty or forfeiture and costs and charges before the expiration of the said two calendar months; and all such penalties and forfeitures when recovered shall be paid one half to the informer and the other half shall be paid to the magistrate or magistrates justice or justices of the peace, and within seven days after his or their receipt thereof to be transmitted by him or them to the churchwardens or overseers of the parish or parishes where the offence shall be committed, there to be applied for the benefit of the poor thereof.

XIV. And be it further enacted, That if it shall be made out by the oath (or affirmation as aforesaid) of any credible person or persons to the satisfaction of any magistrate or magistrates justice or justices that any person or persons within the jurisdiction of any such magistrate or magistrates justice or justices is or are likely to give or offer material evidence on behalf of the prosecutor of any offender or offenders against the true intent and meaning of this Act, or on behalf of the person or persons accused, and will not voluntarily appear before such magistrate or magistrates justice or justices to be examined and give his her or their evidence upon oath or affirmation as aforesaid concerning the premises, every such magistrate or magistrates justice or justices is and are hereby authorised and required to issue his or their summons to convene every such witness and witnesses before any such magistrate or magistrates justice or justices at such seasonable time or times as in such summons shall be fixed; and if any person or persons so summoned shall neglect or refuse to appear (after having been paid or tendered a reasonable sum for his her or their costs charges and expences) at the time by such summons appointed, and no just excuse shall be offered for such neglect or refusal, then after proof upon oath or affirmation as aforesaid of such summons having been duly served upon the party or parties so summoned, every such magistrate and magistrates justice and justices is and are hereby authorised and required to issue his or their warrant or warrants under

No. I.

1 & 2
Geo. IV.
c. 50.Penalties levied
by Distress and
Sale.Application of
Penalties.Power to sum-
mon Witnesses.

No. I.
1 & 2
Geo. IV.
c. 50.

prosecutors for loss of time in instituting and following up the prosecution at a rate not exceeding three shillings *per diem*, and be paid to the prosecutor or prosecutors for his and their own use and benefit; and the residue of such penalty to be paid to such magistrate or magistrates justice or justices of the peace within seven days after his or their receipt thereof to be transmitted by him or them to the churchwardens or overseers of the parish or parishes where the offence shall be committed, to be applied for the benefit of the poor thereof; and in case the whole amount of the penalty and of the costs and expences as aforesaid be not paid within three days after the conviction of the offender or offenders, such magistrate or magistrates justice or justices of the peace shall and may by warrant under their respective hands and seals or hand and seal direct the same to be levied and raised by distress and sale of the goods and chattels of the offender or offenders, rendering the overplus if any; or in default or insufficiency of such distress to commit the offender or offenders to the house of correction on a first offence for any time not exceeding fourteen days, and on the second or any subsequent offence for any time not exceeding twenty-one days, unless the whole of the penalty costs and expences be sooner paid and discharged.

No Miller or Baker may act as Justice in the Execution of this Act.

XII. Provided always and be it further enacted, That no person who shall be concerned in the business of a miller mealman or baker corn merchant or dealer in corn or flour shall be capable of acting or shall be allowed to act as a magistrate or justice of the peace under this Act or in putting in execution any of the powers in or by this Act granted; and if any miller mealman or baker shall presume so to do he or they so offending in the premises shall for every such offence forfeit and pay the sum of fifty pounds to any person or persons who shall inform or sue for the same, to be recovered in any of his Majesty's courts of record at *Westminster* by action of debt bill plaint or information wherein no essoign wager of law or more than one imparlance shall be allowed.

All Offences against this Act may be heard in a summary way.

XIII. And for the better and more easy recovery of the several penalties and forfeitures to be incurred under this Act and the powers herein contained, be it further enacted, That it shall and may be lawful for the mayor or any alderman of any city and to and for any other of his Majesty's justices of the peace or any of them within their respective counties divisions cities towns corporate liberties or jurisdictions beyond the city of *London* and the liberties thereof, and beyond the weekly bills of mortality and ten miles of the *Royal Exchange*, to hear and determine in a summary way all offences committed against the true intent and meaning of this Act, and for that purpose to summon before them or any of them within their respective jurisdictions any party or parties accused of being an offender or offenders against the true intent and meaning of this Act; and in case the party accused shall not appear on such summons or offer some reasonable excuse for his default, then upon oath or affirmation as aforesaid by any credible witness or witnesses of any offence committed contrary to the true intent and meaning of this Act, any such magistrate or justice shall issue his warrant or warrants for apprehending the offender or offenders within the jurisdiction of any such magistrate or justice; and upon the appearance of any party or parties accused, or in case he she or they shall not appear on notice being given to or left for him her or them at his her or their usual place of abode, or if he she or they cannot be apprehended on a warrant granted against him her or them as is herein-before directed, then and in every such case any such magistrate or justice is and are hereby authorised and required to proceed to make inquiry touching the matters complained of, and to examine any witness or witnesses who shall be offered on either side on oath or affirmation as aforesaid, and which oath and affirmation every such magistrate and justice is and are hereby authorised and required to administer; and after hearing the parties who shall appear and the witnesses who shall be offered on either side, such magistrate or justice shall convict or acquit the party or parties accused; and if the penalty or money forfeited on any such conviction shall not be paid within the space of twenty-four hours after any such conviction, every such magistrate or

appear just and reasonable to be paid by either party; and if upon hearing the said appeal the judgment of the magistrate or magistrates justice or justices before whom the appellant or appellants shall have been convicted shall be confirmed, such appellant or appellants shall immediately or within twenty-four hours afterwards pay down the sum he she or they shall have been adjudged to have forfeited, together with such costs as the said justices in their said general or general quarter sessions shall award to be paid to the prosecutor or informer for defraying the expences sustained by reason of any such appeal; and in default of the appellant's paying the same, any two justices or any magistrate or justice of the peace, having jurisdiction in the place into which any such appellant or appellants shall escape or where he she or they shall reside, shall and may by warrant under their hands and seals or his hand and seal commit any such appellant or appellants to the common gaol of the city county division or place where he she or they shall be apprehended, until he she or they shall make payment of such penalty and of the costs and charges which shall be adjudged on the conviction; but if the appellant or appellants in any such appeal shall make good his her or their appeal and be discharged of the said conviction, reasonable costs shall be awarded to the appellant or appellants against such informer or informers who would (in case of such conviction) have been entitled to a moiety of the penalty to have been recovered as aforesaid; and which costs shall and may be recovered by the appellant or appellants against any such informer or informers in like manner as costs given at any general or general quarter sessions are recoverable: Provided always, that no person shall be detained in prison for any such offence for a greater length of time than two calendar months.

XIX. Provided always and be it further enacted, That if any such conviction shall happen to be made within six days before any general or general quarter sessions of the peace shall be held for the city county division town corporate borough or place where such conviction shall have been made, then the party or parties who shall think him her or themselves aggrieved by any such conviction shall and may, on entering into recognisance in manner and for the purposes before directed, be at liberty to appeal either to the then next or next following general or general quarter sessions of the peace which shall be held for any such county division city town corporate borough liberty or place where any such conviction shall have been made.

XX. And be it further enacted, That every action or suit which shall be brought or commenced against any magistrate or magistrates justice or justices or any peace officer or officers for any matter or thing done or committed by virtue of or under this Act shall be commenced within six months after the fact committed and not afterwards, and shall be laid or brought in the city county or place where the matter in dispute shall arise and not elsewhere; and that the statute made in the twenty-fourth year of the reign of King George the Second, intituled *An Act for rendering Justices of the Peace more safe in the Execution of their Office, and for indemnifying Constables and others acting in obedience to their Warrants*, so far as the said Act relates to the rendering the justices more safe in the execution of their office, shall extend and be construed to extend to the magistrate and magistrates justice and justices of the peace acting under the authority or in pursuance of this Act; and that no action or suit shall be had or commenced against, nor shall any writ be issued out or copy of any writ be served upon any peace officer or officers for any thing done in the execution of this Act until seven days after notice in writing shall have been given to or left for him or them at his or their usual place of abode by the attorney for the party intended to commence such action; which notice in writing shall contain the name and place of abode of the person intending to bring such action and also of his attorney and likewise the cause of action or complaint; and any peace officer or officers shall be at liberty and may by virtue of this Act, at any time within seven days after any such notice shall have been given to or left for him, tender or come to be tendered any sum or sums of money as amends for the injury

No. I.
1 & 2
Geo. IV.
c. 50.

If Conviction shall happen within Six Days, Appeal may be made to the Sessions following.

Limitation of Actions.

Geo. IV.
c. 50.

**Persons refus-
ing may be com-
mitted.**

Persons forswearing guilty of Perjury.

**Form of Con-
viction.**

his hand and seal or their hands and seals to bring every such person or persons before any such magistrate or magistrates justice or justices ; and on the appearance of such person or persons before such magistrate or magistrates justice or justices every such magistrate or justice is and are hereby authorised and empowered to examine upon oath (or affirmation) every such witness ; and if any such person or persons on his her or their appearance, or on being brought before any such magistrate or magistrates justice or justices shall refuse to be examined upon oath (or affirmation) concerning the premises, without offering any just excuse for such refusal, any such magistrate or magistrates justice or justices within the limits of his or their jurisdiction may, by warrant under his hand and seal or their hands and seals, commit any person or persons so refusing to be examined to the public prison of the city county division liberty or place in which the person or persons so refusing to be examined shall be, there to remain for any time not exceeding fourteen days as any such magistrate or magistrates justice or justices shall order and direct.

XV. And be it further enacted, That if any person or persons who shall take any oath (or affirmation) by this Act directed to be taken, or be examined on oath (or affirmation) by virtue or in the execution of this Act, shall wilfully forswear or shall falsely affirm himself herself or themselves, every such person or persons shall be subject and be liable to be prosecuted for perjury by indictment or information according to due course of law; and if convicted thereof shall be subject and liable to the like pains and penalties which persons convicted of wilful and corrupt perjury are subject and liable to.

XVI. And be it further enacted, That the magistrate or magistrates justice or justices before whom any person or persons shall be convicted in manner prescribed by this Act shall cause every such conviction to be drawn up in the form or the effect following; (that is to say),

' to wit. { **B**E it Remembered, That on this day
 ' of in the year of the
 ' reign of his present Majesty, A. B. is convicted before
 ' Majesty's Justices of the Peace for the said county
 ' of or, for the division of the said
 ' county of or, for the city liberty or town
 ' [as the case may be], for and do adjudge him her
 ' or them [as the case may be] to forfeit and pay for the same the sum
 ' of Given
 ' under hand and seal, the day and year aforesaid.'

**Conviction not
removable.**

XVII. And be it further enacted, That no certiorari letters of advocacy or of suspension shall be granted to remove any conviction or other proceedings had thereon in pursuance of this Act.

Appeal to Quarter Ses- sions.

XVIII. Provided always, and it is hereby further enacted, That if any person or persons convicted of any offence punishable by this Act shall think him or herself aggrieved by the judgment of the magistrate or magistrates justice or justices before whom he or she or they shall have been convicted, such persons shall have power from time to time to appeal to the justices at the next general or general quarter sessions of the peace which shall be held for the city county division liberty town or place where such judgment shall have been given, and that the execution of such judgment shall in such case be suspended, the person so convicted entering into a recognisance at the time of such conviction, or within twenty-four hours after the same shall be made, with two sufficient sureties in double the sum which such person shall have been adjudged to pay or forfeit, upon condition to prosecute such appeal with effect, and to be forthcoming to abide the judgment and determination of the justices at their said next general or quarter sessions; which recognisance the magistrate or magistrates justice or justices before whom such conviction shall be made is and are hereby empowered and required to take; and the justices in the said general or general quarter sessions are hereby authorised and required to hear and finally determine the matter of every such appeal, and to award such costs as to them shall

appear just and reasonable to be paid by either party; and if upon hearing the said appeal the judgment of the magistrate or magistrates justice or justices before whom the appellant or appellants shall have been convicted shall be confirmed, such appellant or appellants shall immediately or within twenty-four hours afterwards pay down the sum he she or they shall have been adjudged to have forfeited, together with such costs as the said justices in their said general or general quarter sessions shall award to be paid to the prosecutor or informer for defraying the expences sustained by reason of any such appeal; and in default of the appellant's paying the same, any two justices or any magistrate or justice of the peace, having jurisdiction in the place into which any such appellant or appellants shall escape or where he she or they shall reside, shall and may by warrant under their hands and seals or his hand and seal commit any such appellant or appellants to the common gaol of the city county division or place where he she or they shall be apprehended, until he she or they shall make payment of such penalty and of the costs and charges which shall be adjudged on the conviction; but if the appellant or appellants in any such appeal shall make good his her or their appeal and be discharged of the said conviction, reasonable costs shall be awarded to the appellant or appellants against such informer or informers who would (in case of such conviction) have been entitled to a moiety of the penalty to have been recovered as aforesaid; and which costs shall and may be recovered by the appellant or appellants against any such informer or informers in like manner as costs given at any general or general quarter sessions are recoverable: Provided always, that no person shall be detained in prison for any such offence for a greater length of time than two calendar months.

XIX. Provided always and be it further enacted, That if any such conviction shall happen to be made within six days before any general or general quarter sessions of the peace shall be held for the city county division town corporate borough or place where such conviction shall have been made, then the party or parties who shall think him her or themselves aggrieved by any such conviction shall and may, on entering into recognisance in manner and for the purposes before directed, be at liberty to appeal either to the then next or next following general or general quarter sessions of the peace which shall be held for any such county division city town corporate borough liberty or place where any such conviction shall have been made.

XX. And be it further enacted, That every action or suit which shall be brought or commenced against any magistrate or magistrates justice or justices or any peace officer or officers for any matter or thing done or committed by virtue of or under this Act shall be commenced within six months after the fact committed and not afterwards, and shall be laid or brought in the city county or place where the matter in dispute shall arise and not elsewhere; and that the statute made in the twenty-fourth year of the reign of King George the Second, intituled *An Act for rendering Justices of the Peace more safe in the Execution of their Office, and for indemnifying Constables and others acting in obedience to their Warrants*, so far as the said Act relates to the rendering the justices more safe in the execution of their office, shall extend and be construed to extend to the magistrate and magistrates justice and justices of the peace acting under the authority or in pursuance of this Act; and that no action or suit shall be had or commenced against, nor shall any writ be issued out or copy of any writ be served upon any peace officer or officers for any thing done in the execution of this Act until seven days after notice in writing shall have been given to or left for him or them at his or their usual place of abode by the attorney for the party intended to commence such action; which notice in writing shall contain the name and place of abode of the person intending to bring such action and also of his attorney and likewise the cause of action or complaint; and any peace officer or officers shall be at liberty and may by virtue of this Act, at any time within seven days after any such notice shall have been given to or left for him, tender or cause to be tendered any sum or sums of money as amends for the injury

No. I.

1 & 2

Geo. IV.

c. 50.

If Conviction shall happen within Six Days, Appeal may be made to the Sessions following.

Limitation of Actions.

No. I.
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complained of to the party complaining or to the attorney named in such notice; and if the same is not accepted of, the defendant or defendants in any such action or actions may plead such tender in bar of such action or actions, together with the general issue or any other plea with leave of the court in which the action shall be commenced, and if upon issue joined on such tender the jury shall find amends tendered to have been sufficient, they shall find a verdict for the defendant or defendants; and in every such case, or if the plaintiff shall become nonsuit or discontinue his action, or if judgment shall be given for the defendant or defendants upon demurrer, or if any action or suit shall be brought after the time limited by this Act for bringing the same, or shall be brought in any other county or place than as aforesaid, then and in every such case the jury shall find a verdict for the defendant or defendants, and the defendant or defendants shall be entitled to his or their costs; but if the jury shall find that no such tender was made or that the amends tendered were not sufficient, or shall find against the defendant or defendants or any plea or pleas by him or them pleaded, they shall then give a verdict for the plaintiff and such damages as they shall think proper; and the plaintiff shall thereupon recover his costs against every such defendant or defendants.

General Issue.

XXI. And be it further enacted, That if any action or suit shall be commenced against any other person or persons than a justice or other peace officer for any thing done in pursuance of this Act, the defendant or defendants in every such action or suit may plead the general issue and give this Act and the special matter in evidence at any trial to be had thereupon, and that the same was done in pursuance and by the authority of this Act; and if it shall appear to have been so done, or if a verdict shall be recorded for the defendant or defendants, or if the plaintiff or plaintiffs shall be nonsuited or discontinue his her or their action after the defendant or defendants shall have appeared, or if a judgment shall be given upon a verdict or demurrer against the plaintiff or plaintiffs, the defendant or defendants in every such action shall and may recover treble costs and have the like remedy for the same as any defendant or defendants hath or have in other cases by law for the recovery of his her or their costs.

Treble Costs.

Limiting the
Commence-
ment of Pro-
secutions.
Persons con-
victed not
liable to other
Prosecution.

XXII. Provided always, and be it further enacted, That no person shall be convicted of any offence under this Act, unless the information in order for such conviction shall be exhibited within fourteen days after the offence committed (except in cases of perjury); and that no person who shall be prosecuted to conviction for any offence done or committed against this Act shall be liable to be prosecuted for the same offence under any other law.

Application of Penalties.

XXIII. And be it further enacted, That all penalties and forfeitures by this Act inflicted, the application of which is not herein-before directed, shall, when recovered or paid, go and be disposed of in manner following (that is to say), one moiety thereof where any offender or offenders shall be convicted either by his her or their confession or by the oath (or affirmation) of one or more credible witness or witnesses shall go and be paid to the person or persons who shall inform against and prosecute to conviction any such offender or offenders, and the other moiety thereof, or in case there be no such person informing, then the whole thereof shall go and be paid to the churchwardens and overseers of the poor of the parish or parishes for the use of the poor of the said parish wherein such offence shall be committed, in such manner as the said churchwardens and overseers of the poor shall in his or their discretion think fit.

Saving the Rights of the Universities.

XXIV. Provided always and be it further enacted, That neither this Act or any thing herein contained shall extend or be construed to extend to prejudice the ancient right of custom of the University of Oxford or of Cambridge or either of them, or their or either of their clerks of the market, or the practice within the several jurisdictions of the said universities or either of them used to set ascertain and appoint the assize and weight of all sorts of bread to be sold or exposed to sale within their several jurisdictions; but that they and every of them shall and may

severally and respectively, from time to time as there shall be occasion, set ascertain and appoint within their several and respective jurisdictions the assize and weight of all sorts of bread to be sold or exposed to sale by any baker or other person whatsoever within the limits of their several jurisdictions, and shall and may inquire into and punish any breach thereof fully and freely in all respects as they used to do and as if this Act had never been made; any thing herein contained to the contrary thereof notwithstanding.

XXV. And be it further enacted, That this Act shall commence and take effect from and immediately after one calendar month from the passing thereof. Commence-
ment of Act.

XXVI. And be it further enacted, That this Act shall be deemed and taken to be a public Act, and shall be judicially taken notice of as such by all judges justices and others without being specially pleaded. Public Act.

No. I.

1 & 2

Geo. IV.

c. 50.

PART VI.

CLASS VI.

Bridges.

[No. I.] 22 Henry VIII. c. 5.—For Bridges and Highways.

22 Henry VIII.
c. 5.

13 Co. 33.
Poph. 192
2 Inst. 700

Justices of
Peace may
award Process
against them
who ought to
repair Bridges.
This Act is en-
forced by 1 Ann.
St. 1. c. 18. so
far as not alter-
ed by that Sta-
tute.

BE it enacted by the King our Sovereign Lord, and the Lords Spi-ritual and Temporal and the Commons in this present Parliament assembled, and by authority of the same, That the justices of peace in every shire of this realm franchise city or borough, or four of them at the least, (1.) whereof one to be of the *quorum*, shall have power and authority to inquire hear and determine in the King's general sessions of peace of all manner of annoyances of bridges broken in the highways to the damage of the King's liege people, and to make such process and pains upon every presentment afore them for the reformation of the same, against such as owen to be charged for the making or amending of such bridges, as the King's justices of his bench use commonly to do, or as it shall seem by their discretions to be necessary and convenient for the speedy amendment of such bridges.

II. ' And where in many parts of this realm it cannot be known and ' proved what hundred riding wapentake city borough town or parish nor ' what person certain or body politick ought of right to make such ' bridges decayed, by reason whereof such decayed bridges for lack of ' knowledge of such as owen to make them for the most part lie long ' without any amendment to the great annoyance of the King's subjects :

III. For the remedy thereof be it enacted by authority aforesaid, That in every such case the said bridges, if they be without city or town corporate, shall be made by the inhabitants (2.) of the shire or riding within the which the said bridge decayed shall happen to be ; and if it be within any city or town corporate, then by the inhabitants of every such city or town corporate wherein such bridges shall happen to be ; and if part of any such bridges so decayed happen to be in one shire riding city or town corporate, and the other part thereof in another shire riding city or town corporate, or if part be within the limits of any city or town corporate and part without, or part within one riding and part within another ; that then and in every such case the inhabitants of the shires ridings cities or towns corporate shall be charged and chargeable to amend make and repair such part and portion of such bridges so decayed as shall lie and be within the limits of the shire riding city or town corporate, wherein they be inhabited at the time of the same decays. (1.)

(1.) If the Bridge be within a Franchise which hath not four Justices and a Sessions of its own, the Justices of the County shall inquire ; but if the Franchise be a County of itself, and hath not four Justices, it is not within the Statute, but is left to the remedy at Common Law : 2 Inst. 702.

(2.) In the reading upon this Statute, 2 Inst. 702. it is shewn that the term *inhabitants* is referrible to the Occupiers of Tenements, and that Corporations are chargeable for the Roads in their own Occupation ; but by Statute 12. G. II. c. 29. the charge of repairing Bridges is to be included in the general County Rate.

(3.) The Inhabitants of a County are bound to

repair every public Bridge within it ; unless when indicted for the now repair of it they can shew by their plea that some other person is liable ; and every Bridge in a highway is by the Stat. 22 H. 8. c. 5. deemed a public Bridge for this purpose. Therefore, where Queen Anne, in 1708, for her greater convenience, built a bridge on the Thames at Datchet, in the common highway leading from London and Windsor, in lieu of an ancient ferry which belonged to the Crown, and she and her successors maintained and repaired the Bridge till 1796, when, being in part broken down, the whole was removed, and the materials converted to the use of the King, by whom the ferry was

IV. And be it further enacted, That in every such case where it cannot be known and proved what persons lands tenements and bodies politick owen to make and repair such bridges, that for speedy reformation and amending of such bridges the justices of peace within the shires or ridings wherein such decayed bridges been out of cities and towns corporate, and if it be within cities or towns corporate then the justices of peace within every such city or town corporate or four of the said justices at the least, whereof one to be of the *quorum*, shall have power and authority within the limits of their several commissions and authorities to call before them the constables of every town and parish being within the shire riding city or town corporate, as well within liberty as without, wherein such bridges or any parcel thereof shall happen to be, or else two of the most honest inhabitants within every such town or parish in the said shire riding city or town corporate, by the discretion of the said justices of peace or four of them at the least, whereof one to be of the *quorum*; and at and upon the appearances of such constables or inhabitants the said justices of peace or four of them, whereof one to be of the *quorum*, with the assent of the said constables or inhabitants, shall have power and authority to tax and set every inhabitant in every such city town or parish within the limits of their commissions and authorities to such reasonable aid and sum of money as they shall think by their discretions convenient and sufficient for the repairing re-edifying and amendment of such bridges; and after such taxation made the said justices shall cause the names and sums of every particular person so by them taxed to be written in a roll indented: And shall also have power and authority to make two collectors of every hundred for collection of all such sums of money by them set and taxed; which collectors receiving the one part of the said roll indented under the seals of the said justices shall have power and authority to collect and receive all the particular sums of money therein contained, and to distrain every such inhabitant as shall be taxed and refuse payment thereof in his lands goods and chattels, and to sell such distress, and of the sale thereof retain and perceive all the money taxed, and the residue (if the distress be better) to deliver to the owner thereof; and that the same justices or four of them within the limits of their commissions and authorities, shall also have power and authority to name and appoint two surveyors, which shall see every such decayed bridge repaired and amended from time to time as often as need shall require, to whose hands the said collectors shall pay the said sums of money taxed and by them received; and that the collectors and surveyors and every of them and their executors and administrators and the executors and administrators of them and every of them from time to time shall make a true declaration and accempt to the justices of peace of the shire riding city or town corporate wherein they shall be appointed collectors or surveyors, or to four of the same justices, whereof one to be of the *quorum*, of the receipts payments and expences of the said sums of money: And if they or any of them refuse that to do, that then the same justices of peace or four of them from time to time by their discretions shall have power and authority to make process against the said collectors and surveyors and every of them their executors and administrators and the executors and administrators of every of them by attachments under their seals returnable at the general sessions of peace, and if they appear then to compel them to account as is aforesaid; or else if they or any of them refuse that to do, then to commit such of them as shall refuse to ward,

No. I.

22 H. VIII.

c. 5.

The Justices may tax the Inhabitants with the Assent of the Constables.

By 1 Ann. st. 1. c. 18. Sessions of the Peace may tax the several Townships, &c. See 2 Inst. 704. Doug. 180.

Two Collectors of every Hundred.

The Justices shall appoint Two who shall repair the Bridge.

The Collectors and Surveyors shall accempt to the Justices.

re-established as before; the Court held that the Inhabitants of the County of Bucks, who, in answer to an indictment for the non-repair of that part of the Bridge lying in the County of Bucks, pleaded these matters, and shewed that the Bridge was a common public Bridge, were nevertheless bound to rebuild and repair it, Rex v. Buckinghamshire (Inhab.) 12 E. R. 192.

A new and substantive Bridge of public utility,

built within the limit of one County, and adopted by the Public, is repairable by the Inhabitants of that County, although it be built within 300 feet of an old Bridge repairable by the Inhabitants of another County, who were bound in course under the Statute 22 H. 8. c. 5. to maintain such 300 feet of road, though lying in the other County. Rex v. Devon (Inhab.) 14 E. R. 477.

No. I.

1 & 2

Geo. IV.
c. 50.Persons refus-
ing may be com-
mitted.Persons for-
swearing guilty
of Perjury.Form of Con-
viction.Conviction not
removable.Appeal to
Quarter Ses-
sions.

his hand and seal or their hands and seals to bring every such person or persons before any such magistrate or magistrates justice or justices; and on the appearance of such person or persons before such magistrate or magistrates justice or justices every such magistrate or justice is and are hereby authorised and empowered to examine upon oath (or affirmation) every such witness; and if any such person or persons on his her or their appearance, or on being brought before any such magistrate or magistrates justice or justices shall refuse to be examined upon oath (or affirmation) concerning the premises, without offering any just excuse for such refusal, any such magistrate or magistrates justice or justices within the limits of his or their jurisdiction may, by warrant under his hand and seal or their hands and seals, commit any person or persons so refusing to be examined to the public prison of the city county division liberty or place in which the person or persons so refusing to be examined shall be, there to remain for any time not exceeding fourteen days as any such magistrate or magistrates justice or justices shall order and direct.

XV. And be it further enacted, That if any person or persons who shall take any oath (or affirmation) by this Act directed to be taken, or be examined on oath (or affirmation) by virtue or in the execution of this Act, shall wilfully forswear or shall falsely affirm himself herself or themselves, every such person or persons shall be subject and be liable to be prosecuted for perjury by indictment or information according to due course of law; and if convicted thereof shall be subject and liable to the like pains and penalties which persons convicted of wilful and corrupt perjury are subject and liable to.

XVI. And be it further enacted, That the magistrate or magistrates justice or justices before whom any person or persons shall be convicted in manner prescribed by this Act shall cause every such conviction to be drawn up in the form or the effect following; (that is to say),

‘ to wit. { BE it Remembered, That on this day
‘ of in the year of the
‘ reign of his present Majesty, A. B. is convicted before
‘ Majesty’s Justices of the Peace for the said county
‘ of or, for the division of the said
‘ county of or, for the city liberty or town
‘ [as the case may be], for and do adjudge him her
‘ or them [as the case may be] to forfeit and pay for the same the sum
‘ of Given
‘ under hand and seal, the day and year aforesaid.’

XVII. And be it further enacted, That no certiorari letters of advocacy or of suspension shall be granted to remove any conviction or other proceedings had thereon in pursuance of this Act.

XVIII. Provided always, and it is hereby further enacted, That if any person or persons convicted of any offence punishable by this Act shall think him her or themselves aggrieved by the judgment of the magistrate or magistrates justice or justices before whom he she or they shall have been convicted, such persons shall have power from time to time to appeal to the justices at the next general or general quarter sessions of the peace which shall be held for the city county division liberty town or place where such judgment shall have been given, and that the execution of such judgment shall in such case be suspended, the person so convicted entering into a recognisance at the time of such conviction, or within twenty-four hours after the same shall be made, with two sufficient sureties in double the sum which such person shall have been adjudged to pay or forfeit, upon condition to prosecute such appeal with effect, and to be forthcoming to abide the judgment and determination of the justices at their said next general or quarter sessions; which recognisance the magistrate or magistrates justice or justices before whom such conviction shall be made is and are hereby empowered and required to take; and the justices in the said general or general quarter sessions are hereby authorised and required to hear and finally determine the matter of every such appeal, and to award such costs as to them shall

appear just and reasonable to be paid by either party; and if upon hearing the said appeal the judgment of the magistrate or magistrates justice or justices before whom the appellant or appellants shall have been convicted shall be confirmed, such appellant or appellants shall immediately or within twenty-four hours afterwards pay down the sum he she or they shall have been adjudged to have forfeited, together with such costs as the said justices in their said general or general quarter sessions shall award to be paid to the prosecutor or informer for defraying the expences sustained by reason of any such appeal; and in default of the appellant's paying the same, any two justices or any magistrate or justice of the peace, having jurisdiction in the place into which any such appellant or appellants shall escape or where he she or they shall reside, shall and may by warrant under their hands and seals or his hand and seal commit any such appellant or appellants to the common gaol of the city county division or place where he she or they shall be apprehended, until he she or they shall make payment of such penalty and of the costs and charges which shall be adjudged on the conviction; but if the appellant or appellants in any such appeal shall make good his her or their appeal and be discharged of the said conviction, reasonable costs shall be awarded to the appellant or appellants against such informer or informers who would (in case of such conviction) have been entitled to a moiety of the penalty to have been recovered as aforesaid; and which costs shall and may be recovered by the appellant or appellants against any such informer or informers in like manner as costs given at any general or general quarter sessions are recoverable: Provided always, that no person shall be detained in prison for any such offence for a greater length of time than two calendar months.

XIX. Provided always and be it further enacted, That if any such conviction shall happen to be made within six days before any general or general quarter sessions of the peace shall be held for the city county division town corporate borough or place where such conviction shall have been made, then the party or parties who shall think him her or themselves aggrieved by any such conviction shall and may, on entering into recognisance in manner and for the purposes before directed, be at liberty to appeal either to the then next or next following general or general quarter sessions of the peace which shall be held for any such county division city town corporate borough liberty or place where any such conviction shall have been made.

XX. And be it further enacted, That every action or suit which shall be brought or commenced against any magistrate or magistrates justice or justices or any peace officer or officers for any matter or thing done or committed by virtue of or under this Act shall be commenced within six months after the fact committed and not afterwards, and shall be laid or brought in the city county or place where the matter in dispute shall arise and not elsewhere; and that the statute made in the twenty-fourth year of the reign of King George the Second, intituled *An Act for rendering Justices of the Peace more safe in the Execution of their Office, and for indemnifying Constables and others acting in obedience to their Warrants*, so far as the said Act relates to the rendering the justices more safe in the execution of their office, shall extend and be construed to extend to the magistrate and magistrates justice and justices of the peace acting under the authority or in pursuance of this Act; and that no action or suit shall be had or commenced against, nor shall any writ be issued out or copy of any writ be served upon any peace officer or officers for any thing done in the execution of this Act until seven days after notice in writing shall have been given to or left for him or them at his or their usual place of abode by the attorney for the party intended to commence such action; which notice in writing shall contain the name and place of abode of the person intending to bring such action and also of his attorney and likewise the cause of action or complaint; and any peace officer or officers shall be at liberty and may by virtue of this Act, at any time within seven days after any such notice shall have been given to or left for him, tender or cause to be tendered any sum or sums of money as amends for the injury

No. I.
1 & 2
Geo. IV.
c. 50.

If Conviction shall happen within Six Days, Appeal may be made to the Sessions following.

Limitation of Actions.

No. I.
1 & 2
Geo. IV.
c. 50.

complained of to the party complaining or to the attorney named in such notice; and if the same is not accepted of, the defendant or defendants in any such action or actions may plead such tender in bar of such action or actions, together with the general issue or any other plea with leave of the court in which the action shall be commenced, and if upon issue joined on such tender the jury shall find amends tendered to have been sufficient, they shall find a verdict for the defendant or defendants; and in every such case, or if the plaintiff shall become nonsuit or discontinue his action, or if judgment shall be given for the defendant or defendants upon demurrer, or if any action or suit shall be brought after the time limited by this Act for bringing the same, or shall be brought in any other county or place than as aforesaid, then and in every such case the jury shall find a verdict for the defendant or defendants, and the defendant or defendants shall be entitled to his or their costs; but if the jury shall find that no such tender was made or that the amends tendered were not sufficient, or shall find against the defendant or defendants or any plea or pleas by him or them pleaded, they shall then give a verdict for the plaintiff and such damages as they shall think proper; and the plaintiff shall thereupon recover his costs against every such defendant or defendants.

General Issue.

XXI. And be it further enacted, That if any action or suit shall be commenced against any other person or persons than a justice or other peace officer for any thing done in pursuance of this Act, the defendant or defendants in every such action or suit may plead the general issue and give this Act and the special matter in evidence at any trial to be had thereupon, and that the same was done in pursuance and by the authority of this Act; and if it shall appear to have been so done, or if a verdict shall be recorded for the defendant or defendants, or if the plaintiff or plaintiffs shall be nonsuited or discontinue his her or their action after the defendant or defendants shall have appeared, or if a judgment shall be given upon a verdict or demurrer against the plaintiff or plaintiffs, the defendant or defendants in every such action shall and may recover treble costs and have the like remedy for the same as any defendant or defendants hath or have in other cases by law for the recovery of his her or their costs.

Treble Costs.

Limiting the
Commence-
ment of Prose-
cutions.
Persons con-
victed not
liable to other
Prosecution.

XXII. Provided always, and be it further enacted, That no person shall be convicted of any offence under this Act, unless the information in order for such conviction shall be exhibited within fourteen days after the offence committed (except in cases of perjury); and that no person who shall be prosecuted to conviction for any offence done or committed against this Act shall be liable to be prosecuted for the same offence under any other law.

Application of Penalties.

XXIII. And be it further enacted, That all penalties and forfeitures by this Act inflicted, the application of which is not herein-before directed, shall, when recovered or paid, go and be disposed of in manner following (that is to say), one moiety thereof where any offender or offenders shall be convicted either by his her or their confession or by the oath (or affirmation) of one or more credible witness or witnesses shall go and be paid to the person or persons who shall inform against and prosecute to conviction any such offender or offenders, and the other moiety thereof, or in case there be no such person informing, then the whole thereof shall go and be paid to the churchwardens and overseers of the poor of the parish or parishes for the use of the poor of the said parish wherein such offence shall be committed, in such manner as the said churchwardens and overseers of the poor shall in his or their discretion think fit.

Saving the Rights of the Universities.


XXIV. Provided always and be it further enacted, That neither this Act or any thing herein contained shall extend or be construed to extend to prejudice the ancient right of custom of the University of *Oxford* or of *Cambridge* or either of them, or their or either of their clerks of the market, or the practice within the several jurisdictions of the said universities or either of them used to set ascertain and appoint the assize and weight of all sorts of bread to be sold or exposed to sale within their several jurisdictions; but that they and every of them shall and may

severally and respectively, from time to time as there shall be occasion, set ascertain and appoint within their several and respective jurisdictions the assize and weight of all sorts of bread to be sold or exposed to sale by any baker or other person whatsoever within the limits of their several jurisdictions, and shall and may inquire into and punish any breach thereof fully and freely in all respects as they used to do and as if this Act had never been made; any thing herein contained to the contrary thereof notwithstanding.

XXV. And be it further enacted, That this Act shall commence and take effect from and immediately after one calendar month from the passing thereof. Commence-
ment of Act.

XXVI. And be it further enacted, That this Act shall be deemed and taken to be a public Act, and shall be judicially taken notice of as such by all judges justices and others without being specially pleaded. Public Act.

No. I.
1 & 2
Geo. IV.
c. 50.



No. III.

14 Geo. II.
c. 33.13 Geo. II.
c. 24.

Justices of
Quarter Ses-
sions may pur-
chase Lands to
build County
Bridges.

Concerning
Bridges, see
farther 29 Geo.
II. c. 40.
31 Geo. II.
c. 24.

and have Power
to enlarge
Houses of Cor-
rection.

' county bridges to the justices of the peace to purchase any such pieces
' or parcels of ground: And whereas by an Act made in the thirteenth
' year of the reign of his present Majesty, intituled *An Act for the amending*
' *and enforcing the Laws relating to Rogues Vagabonds and other idle and*
' *disorderly Persons, and for reducing the same into one Act of Parliament;*
' *and also for amending the Laws for erecting providing and regulating*
' *Houses of Correction;* it is (amongst other things) enacted, That upon
' the presentment of the grand jury at the assizes great session or general
' gaol delivery held for any county or liberty that there is no house of
' correction, and that it will be necessary to provide one or more house
' or houses of correction in such county or liberty, or that the house or
' houses of correction in any such county or liberty is or are not suffi-
' cient and want to be enlarged; the justices of the peace at their general
' or quarter sessions shall have power to build erect or enlarge one or
' more fit and convenient house or houses of correction, or to purchase
' one or more convenient house or houses for that purpose, or to purchase
' land to erect such house or houses of correction upon, and to make a
' convenient backside or backsides outlet or outlets thereto: And whereas
' in some counties and liberties where it is necessary to have a house or
' houses of correction there is or may be no assize great session or general
' gaol delivery, and in consequence there can be no presentment of such
' grand jury, so that in such cases the said Act is rendered ineffectual;
Therefore for the better repairing and rebuilding county bridges and for
supplying the defects of the said recited Acts, so far as the same relates
to the repairing enlarging building and providing houses of correction,
Be it enacted by the King's most excellent Majesty, by and with the
advice and consent of the Lords Spiritual and Temporal and Commons in
this present Parliament assembled, and by the authority of the same,
That from and after the twenty-fourth day of June one thousand seven
hundred and forty-one, the justices of the peace of any county city riding
liberty or division at their general sessions or general quarter sessions
assembled, or the major part of them, shall have power and are hereby
authorised to purchase or agree or contract with any person or persons
bodies politick or corporate for any piece or parcel of land adjoining or
near to any county bridge within the limits of their respective commis-
sions for the more commodious enlarging or convenient rebuilding the
same; (6.) which pieces or parcels of land shall not exceed one acre in
the whole for any such bridge, and shall from time to time be paid for by
the respective county treasurers out of any monies raised or to be raised
by virtue of an Act made in the twelfth year of the reign of his present
Majesty, intituled *An Act for the more easy assessing collecting and levying*
of County Rates; such treasurers being thereunto authorised by orders
under the hands and seals of the respective justices of the peace at their
general sessions or general quarter sessions or the major part of them;
which lands so purchased shall be conveyed to such person or persons as
the said justices of the peace at their general sessions or general quarter
sessions, or the major part of them, shall respectively appoint, in trust and
for the uses and purposes of enlarging or rebuilding such bridges respec-
tively.

II. And be it further enacted by the authority aforesaid, That from
and after the said twenty-fourth day of June one thousand seven hundred
and forty-one the justices of the peace of any county city riding liberty or
division at their general sessions or general quarter sessions assembled, or
the major part of them, where there shall be no assizes great session or
general gaol delivery held, upon the presentment of the grand jury to such
justices at their general sessions or general quarter sessions, shall have
as full power and authority to repair and enlarge any house or houses of
correction already built, or to purchase any house or houses for a house
or houses of correction, or to build or erect any house or houses of correc-
tion, or to purchase land to erect such house or houses of correction

(6.) This implicitly enables the Judges to alter the Position of Bridges: Per Buller L. R. v. Justices of Glamorgan, 5 T. R. 283.

upon, and to make a convenient backside or backside outlet or outlets thereto, as if such presentment had been made at the assizes great session or general gaol delivery in such manner as is directed and by the same ways and means as are provided in and by the said recited Act made in the thirteenth year of the reign of his present Majesty; any thing in the said Act contained to the contrary thereof in any wise notwithstanding.

‘III. And whereas it is enacted in and by the said Act made in the thirteenth year of the reign of his present Majesty, That the justice or justices of the peace who shall make any pass for conveying any rogue vagabond or incorrigible rogue shall at the same time cause to be delivered to the constable a certificate ascertaining the manner of conveying such rogue vagabond or incorrigible rogue; and that when the place to which the person or persons apprehended are to be sent lies remote and there be one or more counties ridings or divisions intervening, the constable or other officer to whom such pass and certificate shall be given shall forthwith cause the person or persons therein named to be conveyed to the next house of correction in the same county riding or division where he or they shall dwell: And whereas it has been sometimes found inconvenient and has created an extraordinary expence to send the person or persons apprehended who was or were to be immediately passed to some distant county riding or division by such justice or justices to the house of correction in the same county riding or division where he or they dwell, such house of correction often lying out of the direct way to the place where such person or persons was or were to be passed; For remedy whereof, be it further enacted by the authority aforesaid, That from and after the said twenty-fourth day of June one thousand seven hundred and forty-one it shall and may be lawful for any justice or justices of the peace to send any person or persons who shall be apprehended as a rogue vagabond or incorrigible rogue to the house of correction in the county riding or division where he or they dwell, or to any other house of correction in the same county riding or division as shall be most convenient for the passing such person or persons; any thing in the said Act contained to the contrary thereof in any wise notwithstanding.

No. III.

14 Geo. II.
c. 33.

39 Eliz. c. 17.
7 Jac. I. c. 4.
11 & 12 W. III.
c. 18.
1 Ann. stat. 2,
c. 13.
5 Ann. c. 32.
6 Geo. I. c. 19.

Justices may
send Vagabonds
to the most con-
venient House
of Correction,
&c.

Farther concern-
ing Vag-
rants, see
17 Geo. II. c. 5.
25 Geo. II.
c. 36—26 Geo.
II. c. 34.

[No. IV.] 43 George III. c. 59.—An Act for remedying certain Defects in the Laws relative to the Building and Repairing of County Bridges, and other Works maintained at the Expence of the Inhabitants of Counties in England.—[24th June 1803.]

‘WHEREAS the inhabitants of counties in that part of the United Kingdom called *England* are by law bound to repair support and maintain the public bridges commonly called *County Bridges* within such counties respectively and the roads at each of the ends thereof for limited distances; but the laws empowering them so to do are insufficient and defective: And whereas doubts have arisen how far the said inhabitants are liable to improve such bridges when they are not sufficiently commodious for the public; For remedy thereof, be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That it shall be lawful to and for the surveyor of bridges and other publick works in each and every county respectively within that part of the United Kingdom called *England*, appointed or to be appointed by the justices at any general quarter sessions of the peace to be holden for such county, and the said surveyor is hereby authorised and empowered to search for take and carry away gravel stone sand and other materials for the repair of such bridges and roads at the ends thereof as the inhabitants of counties are bound to repair, and to remove obstructions and annoyances from such bridges and roads in such and the same manner as the surveyor or surveyors of any

43 Geo. III.
c. 59.

Surveyors of
County Bridges,
&c. in England,
empowered to
get Materials
for the Repair
of Bridges, in
the same Man-
ner as Survey-
ors of High-
ways under
13 Geo. III.
c. 78.

No. IV.
43 Geo. III.
c. 59.

common highway within this kingdom is or are by an Act made and passed in the thirteenth year of the reign of his present Majesty, intituled *An Act to explain amend and reduce into one Act of Parliament the Statutes now in being for the Amendment and Preservation of publick Highways within that part of Great Britain called England, and for other Purposes*, authorized to do; and the several powers and authorities thereby vested in the surveyor or surveyors of highways, as well for the getting of materials as the preventing and removing of all nuisances and annoyances from such bridges and roads, shall be and the same are hereby vested in the surveyor and surveyors of county bridges and the roads at the ends thereof as aforesaid; and the several penalties forfeitures matters and things in the said Act contained relating to highways shall be and the same are hereby extended and applied as far as the same are applicable to such bridges and the roads at the ends thereof as aforesaid as fully and effectually as if the same and every part thereof were herein repeated and re-enacted; the said surveyor or surveyors making satisfaction and compensation for all trespass and damage done in the execution of the powers of this Act in such and the same manner as the surveyors of highways are required to make in and by the said abovementioned Act of the thirteenth year of the reign of his present Majesty.

Quarter Sessions may widen and improve or alter the Situation of County Bridges, &c.

II. And be it further enacted, That where any bridge or bridges or roads at the ends thereof repaired at the expence of any county shall be narrow and incommodious, it shall and may be lawful to and for the said justices at any of their general quarter sessions to order and direct such bridge or bridges and roads to be widened improved and made commodious for the publick; and that where any bridge or bridges repaired at the expence of any county shall be so much in decay as to render the taking the same wholly down necessary or expedient, it shall and may be lawful to and for the said justices at any of their said general quarter sessions to order and direct the same to be rebuilt either on the old site or situation or on any new one more convenient to the publick contiguous to or within two hundred yards of the former one as to such justices shall seem meet; and if for the purpose of altering the situation or of widening or enlarging any such bridge or bridges road or roads as aforesaid it shall be necessary to purchase any land or ground, it shall and may be lawful for such county surveyor or surveyors by and under the direction of such justices at their general quarter sessions as aforesaid to set out and ascertain the same, not exceeding in the whole one acre at any one such bridge as aforesaid, and to contract and agree with the owner or owners of such land and persons interested therein for the purchase thereof, either by a sum in gross or by an annual rent at the option of such owner or owners; and if the said surveyor or surveyors cannot agree with the said owner or owners for the purchase thereof or the recompense to be made for the same, or by reason of such owner or owners not being to be found shall be prevented from treating, then and in every such case the said justices in their general quarter sessions shall impanel a jury and assess the compensation and satisfaction for such land and for the trespass and damage to be done by the execution of the powers of this Act in the same manner as they are authorised and empowered to do by the said abovementioned Act of the thirteenth year of the reign of his present Majesty in relation to highways; and all and every the clauses powers provisions-exemptions penalties matters and things in the said Act contained as well with respect to impannelling juries examining and swearing witnesses payments of expences enabling bodies politick corporate and collegiate and other incapacitated persons to sell and convey, and all other the powers and provisions of the said Acts shall be and the same are hereby extended and applied to the works by this Act authorised to be done and performed, as far as the same are applicable, as fully and effectually to all intents and purposes as if the same were herein particularly repeated and re-enacted; provided that no money shall be applied to the amendment or alteration of any such bridge or bridges until presentment shall have been made of the insufficiency inconveniency or want of reparation of such bridge or bridges in pur-

on Presentment of Insufficiency, &c.

suance of some or one of the statutes made and now in force concerning publick bridges. (7)

III. And be it further enacted, That the right and property of all tools implements timber bricks stones gravel and other materials purchased gotten or had or to be purchased gotten or had by or by the order of justices in counties or the surveyor of county bridges for the time being, or in any respect belonging to such counties, shall be and the same are hereby vested in such surveyor for the time being, in whom upon any action or indictment being commenced or prosecuted such property may be laid.

IV. And be it further enacted, That the inhabitants of counties shall and may sue for any damages done to bridges and other works maintained and repaired at the expence of such counties respectively and for the recovering of any property belonging to such counties in the name of their surveyor, and also shall and may be sued in the name of such surveyor; and no action or prosecution to be brought or commenced by or against the inhabitants of counties by virtue of this Act in the name of the said surveyor shall abate or be discontinued by the death or removal of such surveyor or by the act of the surveyor without the consent of the justices at their general quarter sessions assembled, but the surveyor for the time being shall be deemed the plaintiff or defendant in such actions, as the case may be: Provided always, that every such surveyor in whose name any action or suit shall be commenced prosecuted or defended in pursuance of this Act shall always be reimbursed and paid out of the monies in the hands of the treasurer of the publick stock of such county respectively all such costs and charges as he shall be put unto or become chargeable with by reason of his being so made plaintiff or defendant therein; and also all the costs and charges of prosecuting any indictment or indictments or other proceedings against any person or persons whomsoever.

V. And for the more clearly ascertaining the description of bridges hereafter to be erected, which inhabitants of counties shall and may be bound or liable to repair and maintain: Be it further enacted, That no bridge hereafter to be erected or built in any county by or at the expence of any individual or private person or persons body politick or corporate shall be deemed or taken to be a county bridge or a bridge which the inhabitants of any county shall be compellable or liable to maintain or repair, unless such bridge shall be erected in a substantial and commodious manner, under the direction or to the satisfaction of the county surveyor or person appointed by the justices of the peace at their general quarter sessions assembled, or by the justices of the peace of the county of *Lancaster* at their annual general sessions; and which surveyor or person so appointed is hereby required to superintend and inspect the erection of such bridge when thereunto requested by the party or parties desirous of erecting the same; and in case the said party or parties shall be dissatisfied the matter shall be determined by the said justices respectively at their next general quarter sessions or at their annual general sessions in the county of *Lancaster*.

VI. And be it further enacted, That all orders and proceedings made and had within the county of *York* relative to county bridges shall in future be made and had by the justices of the respective ridings assembled

County of *York* shall be made at the Easter Sessions.

No. IV.

43 Geo. III.
c. 59.

Tools and Materials provided by the Quarter Sessions vested in the Surveyor.

Inhabitants of Counties may sue for Damages done to Bridges, in the Name of the Surveyor.

What sort of Bridges Inhabitants of Counties shall be liable to repair.

Orders respecting County Bridge in the

(7.) The Justices of Dorset having under the Stat. 43 Geo. 3. c. 59, contracted for the building of a new Bridge in a different scite, in lieu of the old one, which was ruinous; and having directed the old Bridge to be taken down before the new one was passable, for the benefit of the old materials to be used by the Contractor in finishing the new Bridge; the Court refused a Writ of Prohibition to them to restrain them from pulling down the old before the new Bridge

was passable; though there were strong affidavits of the inconvenience and loss to be sustained by the neighbourhood, in being obliged to use a round-about way in the interval: referring the Complainants to the ordinary remedy by indictment, if the pulling down the old Bridge, under those circumstances, were a nuisance; and seeing no occasion to interfere by applying a prompt remedy of a novel kind in modern practice. *Rex v. the Justices of Dorset*, 15 E. R. 594.

No. IV.
43 Geo. III.
c. 59.

Act shall not
extend to
Bridges repaired
by Tenure.

at the annual and general quarter sessions of the peace holden the first whole week after *Easter* and at no other sessions whatever within such ridings, except at such adjournment as shall be made at the above annual and general quarter sessions so holden as aforesaid for the express purpose of carrying such orders made as aforesaid into effect: Provided nevertheless, that it shall and may be lawful for any two justices of the said ridings respectively in cases of emergency to give such orders for making temporary bridges or such temporary repairs as shall be necessary for the temporary accommodation of the publick.

VII. Provided always, and be it further enacted, That nothing herein contained shall extend to any bridges or roads which any person or persons bodies politick or corporate is or shall be liable to maintain or repair by reason of tenure or by prescription or to alter or affect the right to repair such bridges or roads.

" Publick Act, § 8."

[No. V.] 52 George III. c. 110.—An Act for amending an Act passed in the Twelfth Year of his late Majesty King George the Second, intituled, *An Act for the more easy assessing, collecting, and levying of County Rates*; and for the remedying certain Defects in the Laws relating to the repairing of County Bridges and other Works maintained at the expence of the Inhabitants of Counties in *England*.—[9th July 1812.]

52 George III.
c. 110.

12 G. II. c. 29.
§ 13.

§ 14.

WHEREAS by an Act passed in the Twelfth year of his late Majesty King George the Second, intituled *An Act for the more easy assessing collecting and levying of County Rates*, (1.) it is enacted, That no part of the money to be raised and collected in pursuance of this Act shall be applied to the repair of any bridges gaols prisons or houses of correction until presentments be made by the respective grand juries at the assize great sessions general gaol delivery or general or quarter sessions of the peace, held for any county riding division city town corporate or liberty, of the insufficiency inconveniency or want of reparation of their bridges gaols prisons or houses of correction; and it is further enacted, That from and after the first day of June one thousand seven hundred and thirty-nine, when any public bridges ramparts banks or cops or other works are to be repaired at the expence of any county city riding hundred division liberty or town corporate, it shall and may be lawful to and for the justices of the peace at their general or quarter sessions respectively, or the greater part of them then and there assembled if they think proper and convenient, after presentment to be made as aforesaid of the want of reparation of such bridges ramparts banks or cops, to contract and agree with any person or persons for rebuilding repairing and amending of such bridges ramparts banks or cops as shall be within their respective counties cities ridings hundreds divisions liberties or towns corporate, and all other works which are to be repaired and done by assessment on the respective counties cities ridings hundreds divisions liberties or towns corporate for any term or terms of years not exceeding seven years, at a certain annual sum payment or allowance for the same, such contractor or contractors giving sufficient security for the due performance thereof to the respective clerk of the peace for the time being, or the town clerk high bailiff or chief officer of any city town corporate or liberty; and that such justices at their respective general or quarter sessions shall give public notice of their intention of contracting with any person or persons for rebuilding repairing and amending the bridges ramparts banks or cops and other works aforesaid, and that such contracts shall be made at the most reasonable price or prices which shall be proposed by such contractors

respectively; and that all contracts when agreed to and all orders relating thereto shall be entered in a book to be kept by the respective clerk of the peace for the time being or the town clerk high bailiff or chief officer of any city town corporate or liberty for that purpose, who is and are hereby required to keep them amongst the records of such county city town corporate or liberty, to be from time to time inspected at all seasonable times by any of the said justices within the limits of their commissions, and by any person or persons employed or to be employed by any parish township or place contributing to the purposes of this Act, without fee or reward: And whereas great expence in the repairs of county bridges ramparts banks cops and other works appertaining to the same and of the roads over the same, and of so much of the roads at the ends thereof as by law is to be repaired at the expence of any county riding hundred division liberty or town corporate, and great inconvenience to the public may be often in a great measure prevented by the timely and immediate repair of any inconsiderable damage injury defect or sudden want of repair or amendment of the same, without the delay which must generally arise from the necessity imposed by the aforesaid Act of a presentment by the grand jury at the assize great sessions or general or quarter sessions of the peace held for any county city riding division town corporate or liberty of the want of reparation of the same; by means of which delay the aforesaid want of repair is often very much increased to the great expence of the county and great inconvenience of the public: And whereas it is also expedient that the justices of the peace of any county city riding division town corporate or liberty at their general quarter sessions respectively, before any presentment shall have been made as aforesaid, as directed by the aforesaid Act, of the want of repair of such roads, should be enabled without any such presentment to contract and agree with certain persons hereinafter mentioned for the repairing and amending of the same; and also for keeping the same in repair when so repaired and amended: Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That from and after the first day of July one thousand eight hundred and twelve, it shall and may be lawful for the justices of the peace of any county city riding division town corporate or liberty, at their general quarter sessions or great sessions respectively, to be holden in the week next after the clause of *Easter*, or the greater part of them then and there assembled, to appoint annually two or more justices of the peace acting in and for any division of justices in such county city riding division town corporate or liberty, in or near which any such county bridge or any bridge which is in part a county bridge ramparts banks cops or other works appertaining to the same or any part or parts thereof, or the roads over the same, or so much of the roads at the ends thereof as by law is to be repaired at the expence of any county city riding division town corporate or liberty shall be situate, to superintend the same, and whenever it shall appear on their own inspection to be necessary for the purpose of preventing the further decay and injury of the same to order any immediate repairs or amendments to be done to the same or to any part thereof; but it shall and may be lawful for any two such justices so to be appointed as aforesaid, and any two such justices are hereby empowered by a written order signed by their hands respectively, to order such immediate repairs to be done by such person or persons as to them shall seem fit and proper: Provided, that in no case the sum to be expended by them in such repairs shall exceed the sum of twenty pounds; and further, that such appointments of such justices as aforesaid shall remain in force until one week after the following *Easter* sessions respectively; and that in case of the death of or removal of or refusal to act by any such justice or justices so appointed as aforesaid, the said court of general or quarter sessions or great sessions may at any other of the four quarterly sessions appoint any other justice or justices to act for the re-

No. V.

52 Geo. III.
c. 110.

Quarter Sessions may appoint Justices to superintend Repairs.

Expenditure.

Justices to remain in Office for One Year.

No. IV. at the annual and general qu--
 43 Geo. III. whole week after Easter--
 c. 59. ridings, except--
 and a--

Act shall not
 extend to
 Bridges rep
 by Tenure

No. 1:
 as with III.
 c. 110.
 Quarter Ses-
 sions to order
 Payment for
 Repairs.

Certificate
 signed by One
 Justice.

Justices at Ses-
 sions may ap-
 point Two Jus-
 tices before
 Easter Sessions.

Provisions of
 Easter Appoint-
 ment to apply.

Justices may
 contract for Re-
 pair of Bridges.

And be it further enacted, That it shall be lawful for any county city riding division town corporate or liberty, at any general quarter sessions or great sessions respectively to be holden in any such county city riding division town corporate or liberty, before the general or great sessions which shall be holden in such county city riding division town corporate or liberty in the week after the clause of *Easter* next after the said first day of *July*, or the greater part of them then and there assembled, if they shall think proper, to make such appointment or appointments of justices as they have been hereinbefore by this Act authorised to make at any such *Easter* sessions, and such appointment or appointments shall be in force until one week after the then next *Easter* Sessions.

And it is hereby further enacted, That in case of any such appointment or appointments being made as are herein lastly mentioned and authorised by this Act, all the provisions rules regulations powers directions and authorities of this Act, which are applicable in case of any appointment or appointments being made at any such *Easter* sessions, shall apply in the same manner and in every respect whatsoever, in case of any such appointment or appointments being made, as are hereby authorised at any such sessions as shall be held before the *Easter* sessions which shall be held next after the said first day of *July*, one thousand eight hundred and twelve.

And be it further enacted by the authority aforesaid, That from and after the first day of *July* one thousand eight hundred and twelve it shall and may be lawful for the justices of the peace of any county city riding division town corporate or liberty at their general quarter sessions respectively, or the greater part of them then and there assembled, if they shall think proper and convenient, to contract and agree with the commissioner or commissioners trustee or trustees of any turnpike road within the said county city riding division town corporate or liberty, or with their surveyor or clerk, or with both their surveyor and clerk, or with the surveyor or surveyors of the highway of any parish place or tything within the said county city riding division town corporate or liberty respectively, or with any other person or persons for the main-

And be it further enacted, That from and after the first day of *July* one thousand eight hundred and twelve it shall and may be lawful for the justices of the peace of any county city riding division town corporate or liberty, at any general quarter sessions or great sessions respectively to be holden in any such county city riding division town corporate or liberty, before the general or great sessions which shall be holden in such county city riding division town corporate or liberty in the week after the clause of *Easter* next after the said first day of *July*, or the greater part of them then and there assembled, if they shall think proper, to make such appointment or appointments of justices as they have been hereinbefore by this Act authorised to make at any such *Easter* sessions, and such appointment or appointments shall be in force until one week after the then next *Easter* Sessions.

And it is hereby further enacted, That in case of any such appointment or appointments being made as are herein lastly mentioned and authorised by this Act, all the provisions rules regulations powers directions and authorities of this Act, which are applicable in case of any appointment or appointments being made at any such *Easter* sessions, shall apply in the same manner and in every respect whatsoever, in case of any such appointment or appointments being made, as are hereby authorised at any such sessions as shall be held before the *Easter* sessions which shall be held next after the said first day of *July*, one thousand eight hundred and twelve.

And be it further enacted by the authority aforesaid, That from and after the first day of *July* one thousand eight hundred and twelve it shall and may be lawful for the justices of the peace of any county city riding division town corporate or liberty at their general quarter sessions respectively, or the greater part of them then and there assembled, if they shall think proper and convenient, to contract and agree with the commissioner or commissioners trustee or trustees of any turnpike road within the said county city riding division town corporate or liberty, or with their surveyor or clerk, or with both their surveyor and clerk, or with the surveyor or surveyors of the highway of any parish place or tything within the said county city riding division town corporate or liberty respectively, or with any other person or persons for the main-

taining and keeping in repair roads over any county bridges and of so much of the roads at the ending thereof as by law is to be repaired at the expence of any such county city riding division town corporate or liberty, or any part of the same, for any term not exceeding seven years nor less than one, although no presentment shall have been made as directed by the said recited Act of the twelfth year of his late Majesty King George the Second of the insufficiency inconvenience decay or want of repair of the same; subject however to all the rules restrictions regulations directions and conditions required by the above recited Act in case where the same shall have been presented or directed by that Act.

No. V.
52 Geo. III.
c. 110.
12 G. 2. c. 29.
§ 13.

[No. VI.] 54 George III. c. 90.—An Act to explain and extend an Act, passed in the Forty-third Year of his present Majesty, intituled *An Act for remedying Defects in the Laws relative to the building and repairing of County Bridges, and other Works maintained at the Expence of the Inhabitants of Counties in England*; and for extending the said Act to Bridges and other Works maintained at the Expence of Hundreds.—[14th July 1814].

‘ WHEREAS doubts have been entertained whether the power contained in an Act passed in the forty-third year of the reign of his present Majesty, intituled *An Act for remedying certain Defects in the Laws relative to the building and repairing of County Bridges and other Works maintained at the Expence of the Inhabitants of Counties in England*, for the purchasing of any land or ground, do extend to the purchase of any building or buildings or other erections;’ For remedy whereof, May it therefore please your Majesty that it may be enacted; and be it enacted by the King’s most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That all and every the powers and authorities in the said Act mentioned and contained for the purchase of any land or ground for the purposes of the said Act shall extend and be deemed and construed to extend to all such building or buildings or other erections as may be necessary to be purchased for the purposes of the said Act.

54 Geo. III.
c. 90.
43 G. 3. c. 59.

Extended to
Purchase of
Buildings, &c. as
well as to Pur-
chase of Land.

II. ‘ And whereas it is expedient that the provisions of the said Act as after mentioned should be extended to bridges repaired by the inhabitants of hundreds and other general divisions of counties;’ Be it further enacted, That the said Act and all the powers and provisions thereof (except such provisions therein as relate to bridges thereafter to be erected and built) shall extend as well to bridges and the roads at the ends thereof repaired by the inhabitants of hundreds and other general divisions in the nature of hundreds as to bridges and the roads at the ends thereof repaired by the inhabitants of counties.

Extended to
Bridges, &c. re-
paired by Hun-
dreds or other
Divisions of
Counties.

[No. VII.] 59 Geo. III. c. 143.—An Act to amend the Acts relating to the building and repairing of County Bridges.—[6th July 1815.]

WHEREAS in and by an Act made and passed in the forty-third year of the reign of his present Majesty, intituled *An Act for remedying certain Defects in the Laws relative to the building and repairing of County Bridges, and other Works maintained at the Expence of the Inhabitants of Counties in England*, it is enacted that it should be lawful to and for the surveyor of bridges and other public works in each and every county respectively within that part of the United Kingdom called England, appointed or to be appointed by the justices at any general quarter sessions of the peace to be holden for such county, and the said surveyors were

55 Geo. III.
c. 143.
43 Geo. 3. c. 59.

No. VII.

59 Geo. III.
c. 143.

13 Geo. 3. c. 49.

54 Geo. 3. c. 90.

thereby authorised and empowered to search for take and carry away gravel stone sand and other materials for the repair of certain bridges therein mentioned and roads at the ends thereof, being such as the inhabitants of counties are bound to repair, and to remove obstructions and annoyances from such bridges and roads in such and the same manner as the surveyor or surveyors of any common highway within this kingdom is or are by an Act passed in the thirteenth year of the reign of his present Majesty, intituled *An Act to explain amend and reduce into one Act of Parliament the Statutes now in being for the Amendment and Preservation of the Public Highways within that part of Great Britain called England and for other Purposes* authorised to do; and the several powers and authorities thereby vested in the surveyor or surveyors of highways, as well for the getting of materials as the preventing and removing of all nuisances from such bridges and roads, should be and the same were thereby vested in the surveyor and surveyors of county bridges and the roads at the ends thereof as aforesaid; and the several penalties forfeitures matters and things in the said Act contained relating to highways should be and the same were thereby extended and applied as far as the same are applicable to such bridges and the roads at the ends thereof as aforesaid, as fully and effectually as if the same and every part thereof were therein repeated and re-enacted; the surveyor or surveyors making satisfaction and compensation for all trespass and damage done in the execution of the powers of that Act in such and the same manner as the surveyors of highways are required to make in and by the said recited Act: And whereas an Act was made in the fifty-fourth year of the reign of his present Majesty, intituled *An Act to explain and extend an Act passed in the Forty-third year of his present Majesty, intituled 'An Act for remedying Defects in the Laws relative to the building and repairing of County Bridges and other Works maintained at the Expence of the Inhabitants of Counties in England,' and for extending the said Act to Bridges and other Works maintained at the Expence of Hundreds*: And whereas it is expedient that surveyors of county bridges and other persons being under contract for the rebuilding or repairing such bridges or bridges repaired by the inhabitants of hundreds and other general divisions of counties in the nature of hundreds, should have a more extended power for procuring materials than is at present vested in such surveyors of county bridges by the operation of the said first-recited Act, so far as relates to the procuring of stone for such purposes from quarries; Be it therefore enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That from and after the passing of this Act it shall and may be lawful to and for every surveyor of such bridges in each and every county within that part of the United Kingdom called *England*, appointed or to be appointed by the justices at any general quarter sessions of the peace to be holden for such county; and also to and for the bridge master or all and every persons or person who may at the passing of this Act or from and after the passing thereof be under contract for the rebuilding or repairing of any public bridge built or repaired at the expence of the inhabitants of any such county hundred or general division as aforesaid; and such surveyor and surveyors and also such other person or persons are hereby authorised and empowered, with the consent and by the order of two justices of the peace acting for the county in which such bridge is intended to be rebuilt or repaired first had and obtained for that purpose, to search for work dig get and carry away any stone in from or out of any quarry or quarries whatsoever within the county or counties to which such bridge may belong; other than and except such quarries as may be situated within a garden yard avenue to a house lawn park paddock or inclosed plantation, or as may now or hereafter have ornamental timber trees growing thereon, without the licence or consent of the owner or owners of such quarry or quarries as such surveyor or other person or persons shall judge necessary for the rebuilding or repairing of such bridges respectively, provided such quarry or quarries shall have been

Surveyors of
County Bridges,
and other Persons
employed
under Contracts,
empowered to take
Stones for the
Repair of County
Bridges.

Consent and
Order of Two
Justices of the
Peace necessary.

Quarries situated in
Gardens and Pleasure
Grounds not to be used
without Consent of the
Owners.

worked within the last three years preceding the time when such bridge shall be about to be rebuilt or repaired; the said surveyor or other person or persons making such satisfaction and recompence for the value of such stone and also for the damage to be done to such quarry or quarries by the getting and carrying away the same as shall be agreed upon between him or them and the owner occupier or other person interested in such quarry or quarries respectively; and in case they cannot agree, or such owner or occupier or other person interested shall refuse to treat, then and in every such case the justices of the peace at their general or quarter sessions or any two or more of them appointed for that purpose, fourteen days notice having been given to the owner or his agent of the intention to require a jury, shall cause the value of such stones and amount of such damage to be inquired into and ascertained by a jury of indifferent men of the county riding division city town liberty or precinct wherein the same shall be situated; and to that end shall summon and call before such jury and examine upon oath (which oath any two or more of such justices of the peace is and are hereby empowered to administer) any person or persons whomsoever; and such justices of the peace or any two of them shall by ordering a view or otherwise use all ways and means for the information of themselves and of such jury in the premises; and when such jury shall have inquired of and ascertained the value of such stones and amount of such damage the said justices of the peace shall thereupon order that the sum or sums which shall so appear to be the value of such stones and amount of such damage shall be paid; which verdict or inquisition and order shall be filed of record by the clerk of the peace or other officer having the custody of the records of the said county riding division city town liberty or precinct, and shall be final and conclusive to all intents and purposes whatsoever against all parties and persons whomsoever claiming or to claim in possession remainder reversion or otherwise their heirs and successors as well absent as present, infants lunatics ideots and persons under coverture or any other disability whatsoever, corporations guardians committees husbands trustees and attorneys or any other person or persons whomsoever.

II. And for the summoning and returning such juries be it further enacted, That such justices of the peace or any two of them may issue their warrant or warrants to the sheriff or bailiff of any particular county riding division city town liberty or precinct within the limits of which the quarry or quarries shall be situated, requiring him to impanel summon and return an indifferent jury of twenty-four persons qualified to serve on juries to appear before the said justices or any two of them at such time and place as in such warrant or warrants shall be appointed; and such sheriff or bailiff is and are hereby required to impanel summon and return such number of persons accordingly; and out of the persons so impanelled summoned and returned, or out of such of them as shall appear upon such summons, the justices of the peace or any two of them shall and they are hereby empowered and required to draw by ballot and to swear or cause to be sworn twelve men who shall be the jury for the purposes aforesaid; and in default of a sufficient number of jurymen so returned the said sheriff or bailiff shall take such other honest and indifferent men of the bystanders or that can speedily be procured to attend that service to make up the number of twelve: and all persons concerned shall have their lawful challenges against any of the said jurymen when they come to be sworn; and the said justices of the peace or any two of them shall have power from time to time to impose a fine or fines on such sheriff or bailiff or his deputy or deputies making default in the premises and on any of the persons who shall be summoned and returned on such jury and who shall not appear, or appearing shall refuse to be sworn on the said jury or being sworn shall refuse to give or shall not give a verdict, or shall in any other manner wilfully neglect his or their duty therein, and also on any person who being summoned and required to give evidence before the said jury shall refuse or neglect to appear, or appearing shall refuse to be sworn or to give evidence, so that no such fine be more than ten pounds nor less than twenty shillings on any one person for one offence.

No. VII.

59 Geo. III.
c. 143.

Satisfaction to be made for Stone, and Damage done.

In case of Refusal to treat, Justices at General or Quarter Sessions shall cause the Value of the Stones, and Amount of the Damage done, to be ascertained by a Jury.

Witnesses called before the Jury may be examined upon Oath.

Justices of the Peace may require Sheriffs or Bailiffs to return Juries.

Jury.

Penalty on Jury refusing to appear or to be sworn, and on Persons summoned to attend, refusing to give Evidence.

No. VII.

59 Geo. III.
c. 143.

Expenses of
the Jury how
to be defrayed.

Persons ag-
grieved may ap-
peal to Justices
assembled in
General Quar-
ter Sessions.

Appellant to
enter into Re-
cognisance.

Justices to de-
termine the
Matter of Ap-
peal in a sum-
mary Way.

Enabling Jus-
tices to contract
for the Repair
of County
Bridges, &c.

12 Geo. 2. c. 29.

III. And be it further enacted, That in case any jury shall give in and deliver a verdict for more money as the value of such stones and amount of such damage than what shall have been offered for the purchase thereof by such surveyor or other person or persons as aforesaid, the costs and expences of summoning and maintaining the jury and witnesses shall be borne and paid out of the rates to be collected within such county respectively; but if such jury shall give in and deliver a verdict for no more or for less money than the money which shall have been so offered by such surveyor or other person or persons as aforesaid, then the costs and expences of summoning and maintaining the said jury and witnesses shall be borne and paid by the person or persons with whom such controversy or dispute touching the value of such stones and amount of such damage shall arise, and shall be levied by the warrant of one of the said justices by distress and sale of the goods and chattels of the person or persons made liable to the payment thereof.

IV. Provided always and be it further enacted, That if any person or persons shall or may think himself herself or themselves aggrieved by any thing done or to be done in pursuance of this Act, such person or persons may within the space of three calendar months next after the cause of complaint shall have risen appeal to the justices of the peace at any general quarter sessions of the peace to be holden for the limit wherein the cause of complaint shall arise, every such appellant first giving or causing to be given fourteen days notice at least in writing of his or her intention to bring such appeal and of the cause or matter thereof to the person or persons against whom such complaint shall be made, and within three days next after such notice entering into a recognisance before some justice of the peace acting for the county wherein the cause of complaint shall arise, with two sufficient sureties conditioned to try such appeal and to abide by the order of and pay such costs as shall be awarded by the justices at such session aforesaid; and the said justices at such session, upon due proof of such notice being given as aforesaid and of the entering into such recognisance, shall hear and finally determine the cause and matter of every such appeal in a summary way, and make such award to the party appealing or appealed against as the said justices shall think proper; and the determination of such justices so assembled shall be binding and conclusive to all intents and purposes.

V. And whereas it is expedient that the powers contained in an Act passed in the forty-third year of his present Majesty, intituled *An Act for remedying certain Defects in the Laws relative to the building and repairing of County Bridges and other Works, maintained at the Expence of the Inhabitants of Counties in England*, for authorising the justices of the peace of any county city riding division town corporate or liberty at their general quarter session of the peace to contract for maintaining and keeping in repair roads over county bridges and so much of the roads at the ending thereof as by law is to be repaired at the expence of counties, although no presentment shall have been made of the want of repair as directed by an Act passed in the twelfth year of his late Majesty King George the Second, intituled *An Act for the more easy assessing collecting and levying of County Rates*, should be extended to the bridges as well as to the roads at the end thereof; Be it further enacted, That from and after the day of passing this Act it shall and may be lawful to and for the justices of the peace of any county city riding division town corporate or liberty at their general quarter sessions respectively to contract and agree or to authorize any other person or persons to contract and agree with any person or persons for the maintaining and keeping in repair any county or hundred bridge and the road over such county or hundred bridge, and so much of the road at the ends thereof as are by law liable to be repaired at the expence of any such county hundred city riding division town corporate or liberty or any part of the same; and the said justices are hereby empowered to order such sum or sums of money as may be contracted for and agreed to be paid for the repairing amending and supporting such bridges and the roads over the same or the ends thereof to be paid (in

cases where the county is liable to the repair thereof) by the treasurer of the county out of the county rate, or (in cases where the hundred is liable to the repair of the same) by the bridge master (or other public officer charged with the repair of bridges) of the hundred by which such bridge is liable to be repaired, for any term not exceeding seven years nor less than one, although no presentment of the insufficiency decay or want of repair of the same shall have been made, and although no public notice shall have been given by the said justices at their respective general or quarter session of their intention to contract for the repair of such bridges or the roads at the ends thereof as respectively directed by the said Act of the twelfth year of his late Majesty King *George* the Second: Provided nevertheless, that before any such contract shall be made the said justices shall cause notices to be given in some public paper circulated in such county city riding hundred division town corporate or liberty of their intention to contract.

No. VII.
59 Geo. III.
c. 143.

PART VI.

CLASS VII.

Carriers.

P.

Rep. by 18
Geo. III. 78.
34. as to High-
ways.

3 Will. & Mary,
c. 12.

Justice once a
Year to settle
the Rates of
Carriage.

51. Penalty
upon Carrier
taking above
the Rate.

[No. I.] 3 William and Mary, c. 12.—An Act for the better repairing and amending the Highways, and for settling the Rates of Carriage of Goods.

XXIV. 'AND whereas divers waggons and other carriers by combination amongst themselves have raised the prices of carriage of goods in many places to excessive rates to the great injury of trade; Be it therefore enacted by the authority aforesaid, That the justices of the peace of every county and other place within the realm of *England* or dominion of *Wales* shall have power and authority and are hereby enjoined and required at their next respective quarter or general sessions after *Easter* day yearly to assess and rate the prices of all land-carriage of goods whatsoever to be brought into any place or places within their respective limits and jurisdictions by any common waggoner or carrier, and the rates and assessments so made to certify to the several mayors and other chief officers of each respective market town within the limits and jurisdictions of such justices of the peace, to be hung up in some publick place in every such market town to which all persons may resort for their information; and that no such common waggoner or carrier shall take for carriage of such goods and merchandizes above the rates and prices so set, upon pain to forfeit for every such offence the sum of five pounds to be levied by distress and sale of his and their goods by warrant of any two justices of the peace where such waggoner or carrier shall reside, in manner aforesaid, to the use of the party grieved.

P.

[No. II.] 21 George II. c. 28.—An Act to explain and amend an Act passed in the Fourteenth Year of his Majesty's Reign, intituled *An Act for the Preservation of the Public Roads in that Part of Great Britain called England*; and so much of an Act passed in the Third Year of the Reign of King William and Queen Mary, intituled *An Act for the better repairing and amending the Highways*; and for settling the Rates of the Carriage of Goods, as relates to the settling the Rates of the Carriage of Goods.

21 George II.
c. 28.

'AND whereas by an Act made and passed in the third year of the reign of King William and Queen Mary, intituled, *An Act for the better repairing and amending the Highways and for settling the Rates of Carriage of Goods*, it is enacted, That the justices of the peace of every county and other place within the realm of *England* or dominion of *Wales* should have power and authority and they were thereby enjoined and required at their next respective quarter session after *Easter* yearly to assess and rate the prices of all land carriage of goods whatsoever to be brought into any place within their respective limits and jurisdictions by any common waggoner or carrier to be certified and published in such manner as is therein mentioned; and that no such common

'waggoner or carrier should take for the carriage of such goods or merchandize above the rates and prices so set, upon pain to forfeit for every such offence the sum of five pounds, to be levied and recovered as is by the said Act directed: And whereas no rates for the carriage of goods from distant parts of the kingdom to the City of London and places adjacent have been yet settled, and several common waggons and carriers have from thence taken occasion to enhance the price of carriage of goods to the prejudice and obstruction of trade;' Be it therefore further enacted by the authority aforesaid, That if any common waggoner or carrier shall after the tenth day of June one thousand seven hundred and forty-eight demand and take any greater price for the bringing of goods to the City of London or to any place within the bills of mortality than is allowed and settled by the justices of the peace for the county or place from whence such goods are brought for the carrying of goods from London to the said county or place, every such carrier or waggoner shall for every such offence forfeit and pay the sum of five pounds to the use of the party grieved, to be recovered and levied in the manner by the last-mentioned Act directed, or by distress and sale of his goods by warrant under the hands and seals of any two justices of the peace for the counties of *Middlesex* or *Surrey* or City of *London* or City and Liberty of *Westminster*; and the clerk of the peace for every county and place shall immediately after *Easter* session yearly certify to the Lord Mayor of the City of *London* and also to the respective clerks of the peace for the counties of *Middlesex* and *Surrey* and City and Liberty of *Westminster* the rates and assessments made for the carriage of goods in pursuance of the said Act in their respective counties and places, which certificate or an attested copy thereof signed by the officer to whom the same shall be so transmitted shall be taken and deemed sufficient evidence of the rates and prices set for the carrying of goods to any county or place.

No. III.

7&8 Geo. IV.
c. 39.

Penalty of
Waggoners de-
manding a
greater Price
for Carriage
than allowed.

Clerk of the
Peace to certify
yearly the Rates
for Carriage.

[No. III.] 7 & 8 Geo. IV. c. 39.—An Act to repeal such Parts of Two Acts of King *William* and Queen *Mary* and of King *George* the Second, as relate to the settling the Rates of the Carriage of Goods.—[21st June 1827.]

WHEREAS an Act was passed in the third year of the reign of King *William* and Queen *Mary*, intituled *An Act for the better repairing and amending the Highways, and for settling the Rules of Carriage of Goods*, whereby it was amongst other things enacted, that the justices of the peace of every county and other place within the realm of *England* or dominion of *Wales* should have power and authority, and were thereby enjoined and required at their then next respective quarter or general sessions after *Easter* day yearly, to assess and rate the prices of all land carriage of goods whatsoever, to be brought into any place or places within their respective limits and jurisdictions by any common waggoner or carrier, and the rates and assessments so made to certify to the several mayors and other chief officers of each respective market town within the limits and jurisdictions of such justices of the peace, to be hung up in some public place in every such market town, to which all persons might resort for their information; and that no such common waggoner or carrier should take for carriage of such goods and merchandizes above the rates and prices so set, upon pain to forfeit for every such offence the sum of five pounds, to be levied by distress and sale of his and their goods, by warrant of any two justices of the peace where such waggoner or carrier should reside, in manner aforesaid, to the use of the party grieved: And whereas another Act was passed in the twenty-first year of the reign of King *George* the Second, intituled *An Act to explain and amend an Act passed in the Fourteenth Year of His Majesty's Reign, intituled 'An Act for the Preservation of the Public Roads in that Part of Great Britain called England;'* and so much of an Act passed in the Third Year of the Reign of King *William* and Queen *Mary*, intituled *'An Act for the better repairing and amending the Highways, and for settling the*

3 W. & M.
c. 12.

21 G. 2. c. 28.

No. III.
7&8 Geo. IV.
c. 39.

So much of
recited Acts as
relates to the
settling the
Rates for the
Carriage of
Goods, re-
pealed.

'Rates of the Carriage of Goods,' as relates to the settling the Rates of the Carriage of Goods, whereby, after reciting the herein-before recited Act, it was enacted, that if any common waggoner or carrier should, after the tenth day of June one thousand seven hundred and forty-eight, demand and take any greater price for the bringing of goods to the City of London, or to any place within the bills of mortality, than was allowed and settled by the justices of the peace for the county or place from whence such goods were brought for the carrying of goods from London to the said county or place, every such carrier or waggoner should for every such offence forfeit and pay the sum of five pounds to the use of the party grieved, to be recovered and levied in the manner by the said recited Act directed, or by distress and sale of his goods, by warrant under the hands and seals of any two justices of the peace for the counties of *Middlesex* or *Surrey*, or City of *London*, or City and Liberty of *Westminster*; and the clerk of the peace for every county and place should immediately after *Easter* session yearly certify to the Lord Mayor of the City of *London*, and also to the respective clerks of the peace for the counties of *Middlesex* and *Surrey* and City and Liberty of *Westminster*, the rates and assessments made for the carriage of goods, in pursuance of the said Act, in their respective counties and places, which certificate, or an attested copy thereof, signed by the officer to whom the same should be so transmitted, should be taken and deemed sufficient evidence of the rates and prices set for the carrying of goods to any county or place: And whereas the provisions herein-before recited are at present inoperative, and inapplicable to the present times, and it is expedient that the same should be repealed: Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That from and after the passing of this Act, the provisions herein-before set forth, and any other powers or provisions in the said recited Acts contained, which relate to the settling the rates of the carriage of goods, shall be and the same are hereby severally declared to be repealed.

PART VI.

CLASS VII.*

Cattle.

[No I.] 3 Geo. IV. c. 71.—An Act to prevent the cruel and improper Treatment of Cattle.—[22d July 1822.]

WHEREAS it is expedient to prevent the cruel and improper treatment of horses, mares, geldings, mules, asses, cows, heifers, steers, oxen, sheep, and other cattle: May it therefore please your Majesty that it may be enacted; and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That if any person or persons shall wantonly and cruelly beat abuse or ill-treat any horse, mare, gelding, mule, ass, ox, cow, heifer, steer, sheep, or other cattle, and complaint on oath thereof be made to any justice of the peace or other magistrate within whose jurisdiction such offence shall be committed, it shall be lawful for such justice of the peace or other magistrate to issue his summons or warrant, at his discretion, to bring the party or parties so complained of before him, or any other justice of the peace or other magistrate of the county city or place within which such justice of the peace or other magistrate has jurisdiction, who shall examine upon oath any witness or witnesses who shall appear or be produced to give information touching such offence (which oath the said justice of the peace or other magistrate is hereby authorized and required to administer); and if the party or parties accused shall be convicted of any such offence, either by his her or their own confession, or upon such information as aforesaid, he she or they so convicted shall forfeit and pay any sum not exceeding five pounds, nor less than ten shillings, to his Majesty, his heirs and successors; and if the person or persons so convicted shall refuse or not be able forthwith to pay the sum forfeited, every such offender shall, by warrant under the hand and seal of some justice or justices of the peace or other magistrate within whose jurisdiction the person offending shall be convicted, be committed to the house of correction or some other prison within the jurisdiction within which the offence shall have been committed, there to be kept without bail or mainprize for any time not exceeding three months.

Magistrates empowered to inflict a Penalty on Persons convicted of cruel Treatment of Cattle.

II. Provided always, and be it enacted by the authority aforesaid, That no person shall suffer any punishment for any offence committed against this Act, unless the prosecution for the same be commenced within ten days after the offence shall be committed; and that when any person shall suffer imprisonment pursuant to this Act, for any offence contrary thereto, in default of payment of any penalty hereby imposed, such person shall not be liable afterwards to any such penalty.

No Person to be punished, unless Complaint made within Ten Days after the Offence.

III. Provided also, and be it further enacted, That no order or proceedings to be made or had by or before any justice of the peace or other magistrate by virtue of this Act shall be quashed or vacated for want of form, and that the order of such justice or other magistrate shall be final; and that no proceedings of any such justice or other magistrate in pursuance of this Act shall be removeable by *certiorari* or otherwise.

Proceedings not to be quashed for Want of Form.

IV. And for the more easy and speedy conviction of offenders under this Act, be it further enacted, That all and every the justice and justices of the peace, or other magistrate or magistrates, before whom any person or persons shall be convicted of any offence against this Act, shall and

Form of Conviction.

No. I.
3 Geo. IV.
c. 71.

may cause the conviction to be drawn up in the following form of words, or in any other form of words to the same effect, as the case shall happen; (*videlicet*.)

‘**B**E it remembered, That on the _____ day of _____ in the year of our Lord _____ A. B. is convicted before me, one of his Majesty’s justices of the peace for _____ or mayor or other magistrates of _____ [as the case may be] either by his own confession, or on the oath of one or more credible witness or witnesses [as the case may be] by virtue of an Act made in the third year of the reign of his Majesty King George the Fourth, intituled *An Act to prevent the cruel and improper Treatment of Cattle*, [specifying the offence, and time and place where the same was committed, as the case may be.] Given under my hand and seal, the day and year above written.’

Justices to order Compensation to Persons vexatiously complained against.

V. And be it further enacted, That if on hearing any such complaint as is herein-before mentioned, the justice of the peace or other magistrate who shall hear the same shall be of opinion that such complaint was frivolous or vexatious, then and in every such case it shall be lawful for such justice of the peace or other magistrate to order adjudge and direct the person or persons making such complaint, to pay to the party complained of, any sum of money not exceeding the sum of twenty shillings, as compensation for the trouble and expence to which such party may have been put to by such complaint; such order or adjudgment to be final between the said parties, and the sum thereby ordered or adjudged to be paid and levied in manner as is herein-before provided for enforcing payment of the sums of money to be forfeited by the persons convicted of the offence herein-before mentioned.

Limitation of Actions.

VI. And be it further enacted by the authority aforesaid, That if any action or suit shall be brought or commenced against any person or persons, for any thing done in pursuance of this Act, it shall be brought or commenced within six calendar months next after every such cause of action shall have accrued, and not afterwards, and shall be brought laid and tried in the county city or place in which such offence shall have been committed, and not elsewhere; and the defendant or defendants in such action or suit may plead the general issue, and give this Act and the special matter in evidence at any trial or trials to be had thereon, and that the same was done in pursuance and by authority of this Act; and if the same shall appear to have been so done, or if any such action or suit shall not be commenced within the time before limited, or shall be laid or brought in any other county city or place than where the offence shall have been committed, then and in any such case the jury or juries shall find for the defendant or defendants; or if the plaintiff or plaintiffs shall become nonsuit, or shall discontinue his action or actions, or if judgment shall be given for the defendant or defendants therein, then and in any of the cases aforesaid such defendant or defendants shall have treble costs, and shall have such remedy for recovering the same as any defendant or defendants hath or may have for his her or their costs in any other cases by law.

PART VI.

CLASS VIII.

Coal Mines.

39 and 40 George III. c. 77.—An Act for the Security of Collieries and Mines, and for the better Regulation of Colliers and Miners.

[See this Statute in Part V. Class VI. No. LIX.]

PART VI,

CLASS IX.

*Constables.**

[No. I.] 27 George II. c. 3.—An Act for the better securing to Constables and others the Expences of conveying Offenders to Gaol; and for allowing the Charges of poor Persons bound to give Evidence against Felons.

27 George II.
c. 3.
3 Jac. I. c. 10.

‘WHEREAS by an Act passed in the third year of the reign of King James the First, intituled, *An Act for the rating and levying of the Charges for conveying Malefactors and Offenders to the Gaol*, every offender so to be conveyed shall bear the charges of himself and of those who convey him; and if he refuse so to do, his goods within the same county may be distrained and sold to satisfy the same; and if he hath no goods the constable churchwardens and other inhabitants of the parish where he was taken shall make a tax on every inhabitant thereof to pay the said charges: And whereas the taxing the parish where such offender was taken to pay such charges is a great discouragement to parishes to take offenders; and it is also found by experience to be very difficult to make a rate on the inhabitants to raise such tax, whereby constables and others are often kept out of their money by them advanced for the service of the public and sometimes lose the same to their very great injury and vexation;’ For remedy whereof, Be it enacted by the King’s most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That from and after the twenty-fourth day of June one thousand seven hundred and fifty-four, when any person not having goods or money within the county where he is taken sufficient to bear the charges of himself and of those who convey him is committed to gaol or the house of correction by warrant from any justice or justices of the peace, then on application by any constable or other officer who conveyed him to any justice of the peace for the same county or place (1.) shall upon oath examine into and ascertain the reasonable expences to be allowed such constable or other officer, and shall forthwith without fee or reward by warrant under his hand and seal order the treasurer of the county or place to pay the same, which the said treasurer is hereby required to do as soon as he receives such warrant; and any sum so paid shall be allowed in his accounts.

Offenders not
having sufficient,

Justices to grant
a Warrant on
Treasurer of the
County for Payment of the
Charges.

Part of 2 Jac. I.
c. 10. repealed.

The Charges
of Attendance
to be allowed
by the Court to
poor Persons
bound to give
Evidence against Felons.

II. And be it further enacted by the authority aforesaid, That from and after the said twenty-fourth day of June so much of the above-mentioned Act passed in the third year of King James the First as relates to taxing the parish where offenders are taken for defraying the charges of conveying offenders to gaol shall be repealed.

III. ‘And whereas the expence as well as loss of time in attending courts of justice is a discouragement to the poorer sort to appear as witnesses against offenders, who thereby escape the public justice and the punishment due to their crimes:’ Be it further enacted by the authority aforesaid, That from and after the said twenty-fourth day of June when any poor person shall appear on recognizance in any court to give

* By St. 13 and 14 Ch. II. c. 12. the Justices See the Statute post. title *Poor*.
in Session, in case of the Death or Removal of a (1.) The Words “Such Justice” are omitted
Constable, are empowered to appoint another,— in the Act.

evidence against another accused of any grand or petty larceny or other felony, it shall and may be in the power of the court, at the prayer and on the oath of such person and on consideration of his circumstances, in open court to order the treasurer of the county or place in which the offence shall have been committed to pay unto such person such sum of money as to the same court shall seem reasonable for his time trouble and expence; which order the proper officer of such court is hereby directed and required to make out and to deliver unto such person upon being paid for the same the sum of sixpence and no more; and such treasurer is hereby authorised and required upon delivery of such order forthwith to pay such person or other person authorised to receive the same such sum of money as aforesaid, and shall be allowed the same in his accounts.

IV. Provided always, and it is hereby declared and enacted by the authority aforesaid, That nothing in this Act contained shall extend to empower such court or any justice or justices of the peace to make warrants or orders on the treasurer of the county of *Middlesex* for the payment of the expences of the constable or other officer in conveying any person to gaol, or for the payment of any person for his time trouble and expence who shall appear on his recognisance to give evidence as aforesaid; but that within the said county of *Middlesex* the expences of the constable or other officer, occasioned by his conveying of any person to gaol by virtue of a warrant from any justice or justices of the peace, shall (after such expences have been examined into upon oath and allowed by such justice or justices, and for which no fee or reward shall be taken) be paid by the overseer or overseers of the poor of the parish or place where the said person was apprehended, who is and are hereby authorised and required to pay the same; and the sum or sums so paid shall be allowed in his or their accounts.

No. I.
27 Geo. II.
c. 3.

6d. to be paid to the Officer for making out the Order.

In *Middlesex* the Overseers of the Poor to pay such Charges.

[No. II.] 18 Geo. III. c. 19.—An Act for the Payment of Costs to Parties, on Complaints determined before Justices of the Peace out of Sessions; for the Payment of the Charges of Constables in certain Cases; and for the more effectual Payment of Charges to Witnesses and Prosecutors of any Larceny, or other Felony.

‘WHEREAS by the laws now in being, his Majesty’s justices of the peace are not sufficiently authorised on complaints that come before them out of sessions to award costs against either the person or persons complaining or the person or persons against whom any complaint is made as to justice may appertain:’ May it please your Majesty that it may be enacted, and be it enacted by the King’s most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That where any complaint shall be made before any of his Majesty’s justices of the peace for any county riding division city town corporate franchise or liberty, and any warrant or summons shall issue in consequence of such complaint, that then it shall and may be lawful to and for any justice or justices of the peace, who shall have heard and determined the matter of the said complaint, to award such costs to be paid by either of the parties and in manner and form as to him or them shall seem fit to the party injured: (1.) And in case any person so ordered by the said justice or justices of the peace to pay such sums of money as aforesaid shall not forthwith pay down or give security for the same to the satisfaction of the justice or justices, it shall and may be lawful for the said justice or justices by warrant under his hand and seal or their hands and seals to levy the said sum or sums by dis-

18 George III.
c. 19.

Justices, out of Session, empowered to award Costs.

(1.) Justices of the Peace may give Costs in all *Rex v. Arnold*, 5 T. R. 336. See also *Rex v. Cases of Convictions*, by Stat. 18 Geo. 3. c. 19. *Myers*, 6 T. R. 367.

No. II.

18 Geo. III.
c. 19.

Same may be
levied by Dis-
tress.

If Penalty
amount to 5*l*.
Costs shall be
deducted there-
out, &c.

Forms to be
used.

Constables, &c.
shall, every
Three Months,
deliver to the
Overseers an
Account of Mo-
ney by them
expended or re-
ceived, &c.

If any such
Account be dis-
allowed, a Jus-
tice may settle
the same.

tress and sale of the goods and chattels of such person so refusing or neglecting; and where goods and chattels of such person cannot be found to commit such person to the house of correction for the county riding division city town corporate franchise or liberty wherein such person shall reside, there to be kept to hard labour for any time not exceeding one month nor less than ten days, or until such sum or sums of money together with the expences attending the commitment of such person to such house of correction be first paid.

II. Provided nevertheless, That upon the conviction of any person or persons upon any penal statute or statutes where the penalty or penalties shall amount to or exceed the sum of five pounds, the said costs shall be deducted by the said justice or justices according to his or their discretion out of the said penalty or penalties, so that the said deduction shall not exceed one-fifth part of the said penalty or penalties; and the remainder of the said penalty or penalties shall be paid to or divided among the person or persons who would have been entitled to the whole of the penalty or penalties in case this Act had not been made.

III. And be it further enacted by the authority aforesaid, That the several forms to this Act annexed shall and may in the respective cases be used and observed.

IV. ' And whereas constables headboroughs and tithingmen are or may be at great charge in doing the business of their parish township or place, and in many cases are not sufficiently indemnified by the ' laws; ' Be it therefore enacted by the authority aforesaid, That every constable headborough or tithingman shall every three months, and within fourteen days after he shall go out of such office, deliver to the overseers of the poor of the said parish township or place for the time being a just account in writing, fairly entered in a book to be kept for that purpose and signed by him, of all sums so by him expended on account of the said parish township or place, in all cases not hitherto provided for by the laws heretofore made or by this Act, and also of all sums received by him on the account of the said parish township or place; and the said overseers of the poor or their successors shall within the next fourteen days after the said account or accounts shall be so delivered lay the same before the inhabitants of the said parish township or place; and in case the said account or accounts be approved of by the majority of such inhabitants, the overseers of the poor of the said parish township or place for the time being are hereby authorised and required to pay out of the poor rates made or to be made for such parish township or place such sum or sums of money as shall appear to be due on the said account or accounts; but in case the said account or accounts or any part thereof shall be disallowed, then the said overseers of the poor for the time being shall then deliver back to the said constable headborough or tithingman such book of accounts; and it shall and may be lawful to and for the said constable headborough or tithingman then to produce the said book before any one or more of his Majesty's justices of the peace in and for the county riding division city town corporate franchise or liberty wherein such parish or township shall be situate, giving reasonable notice thereof to the overseers of the poor of the said parish township or place for the time being; which said justice or justices is and are hereby authorised to examine the same, and to hear and determine any objection or objections that shall be made to the said accounts, and to settle the sum which to him or them shall appear due on the said account, and to enter the same in the said account, and to sign his or their name or names thereto; and the overseers of the poor of the said parish township or place for the time being are hereby authorised and required to pay the said sum out of the money which shall come to their hands by virtue of any rate or assessment made or to be made for the relief of the poor. (1.)

(1.) The expence of a constable in prosecuting the Poor Rates, and are not within the 18 Geo. 3. an assult committed on him in the execution of c. 29. § 4. *Rex. v. Bird*, 2 B. & A. 522. his duty cannot be paid by the Overseer out of

V. Provided nevertheless, That in case the overseer or overseers of the poor of the said parish township or place for the time being shall find that the said parish township or place is aggrieved by any neglect act or thing done or omitted by the said constable headborough or tithingman, or by any of his Majesty's justices of the peace, or shall have any material objection to such account or any part thereof, or to such determination as aforesaid, it shall and may be lawful for such overseer or overseers in any of the cases aforesaid, giving reasonable notice to the said justice constable headborough or tithingman, to appeal to the next general or quarter sessions of the peace for the county riding division city town corporate franchise or liberty where such parish township or place lies; and the justices of the peace there assembled are hereby authorized and required to receive such appeal, and to hear and finally determine the same; but if it shall appear to the said justices that reasonable notice was not given, then they shall adjourn the said appeal to the next quarter sessions, and then and there finally hear and determine the same; and the said justices may award and order to the party for whom such appeal shall be determined reasonable costs, in the same manner that they are empowered to do in case of appeals concerning the settlement of poor persons, by an Act made in the eighth and ninth years of King William the Third, intituled *An Act for supplying some Defects in the Laws for the Relief of the Poor of this Kingdom*.

VI. Provided always, That in all corporations or liberties which have not four justices of the peace, it shall and may be lawful for the overseer or overseers of the poor of the parish township or place for the time being, where an appeal is given by this Act, to appeal if he or they shall think fit to the next general or quarter sessions of the peace for the county riding or division wherein such corporation or liberty is situate.

VII. And whereas by an Act passed in the twenty-fifth year of his late Majesty King George the Second, intituled *An Act for the better preventing Thefts and Robberies, and for regulating Places of publick Entertainment, and punishing Persons keeping disorderly Houses*; it was recited, That whereas many persons are deterred from prosecuting persons guilty of felony upon account of the expence attending such prosecutions, which is a cause of the encouragement of thefts; and it was therein among other things enacted, That it should and might be in the power of the court before whom any person has been tried and convicted of any grand or petit larceny or other felony, at the prayer of the prosecutor and on consideration of his circumstances, to order the treasurer of the county in which the offence shall have been committed, to pay unto such prosecutor such sum of money as to the said court shall seem reasonable, not exceeding the expences which it shall appear to the court the prosecutor was put unto in carrying on such prosecution, making him a reasonable allowance for his time and trouble therein; which order the clerk of assize or clerk of the peace respectively was thereby directed and required forthwith to make out and deliver unto such prosecutor, upon being paid for the same the sum of one shilling and no more: And whereas by an Act passed in the twenty-seventh year of his late Majesty King George the Second, reciting, That the expence as well as loss of time in attending courts of justice is a discouragement to the poorer sort to appear as witnesses against offenders, who thereby escape the publick justice and the punishment due to their crimes; it was enacted, That when any poor person shall appear on recognisance in any court to give evidence against another accused of any grand or petit larceny or other felony, it should and might be in the power of the court, at the prayer and on the oath of such person and on consideration of his circumstances, in open court to pay unto such person such sum of money as to the said court shall seem reasonable for his time trouble and expence; which order the proper officer of such court is required to make out and deliver to such person, upon being paid for the same the sum of sixpence and no more: And whereas the said recited Acts of the twenty-fifth and twenty-seventh years of his late Majesty King George the Second have been a great encourage-

No. II.

18 Geo. III.:

c. 19.

Appeal.

Proviso relating
to Corporations,
&c.

25 George II.

27 George II.

No. 12.
18 Geo. III.
c. 19.

Court may
order the Treas-
urer of the
County, &c. to
pay the Prose-
cutor his Ex-
pences, and an
Allowance for
Loss of Time.

Persons appear-
ing to give Evi-
dence, allowed
their Expences,
&c.

ment towards bringing offenders to justice in all such cases as are within the purview of the said statutes; but nevertheless it has been found by experience that the said herein-before recited statute of the twenty-seventh year of his said late Majesty, with regard to persons appearing on recognisance in any court to give evidence as aforesaid extends only to poor persons, such court also considering their circumstances; and also does not extend to persons appearing on subpoena to give evidence: And whereas the said Act of the twenty-fifth year of his said late Majesty, with regard to prosecutors directs the court to consider the circumstances of such prosecutor, and also gives him relief only where the offender is convicted: And whereas it is just and reasonable and may tend in future to the prevention of crimes, or to the due prosecution of all offenders against the laws, that every prosecutor to conviction, and every person so appearing on recognisance or subpoena to give evidence should be allowed his reasonable expences, and also in case he be poor a reasonable satisfaction for his trouble and loss of time; and that such allowance should be made to prosecutors as aforesaid even though the person so accused be acquitted, provided it shall appear to such court before whom the said prisoner shall have been tried that there was a reasonable ground of prosecution, and that the prosecutor hath *bona fide* prosecuted; Be it further enacted by the authority aforesaid, That from and after the passing of this Act it shall and may be in the power of the court before whom any person has been tried and convicted of any grand or petit larceny or other felony, or before whom any person has been tried and acquitted of any grand or petit larceny or other felony, in case it shall appear to the said court that there was a reasonable ground of prosecution, and that the said prosecutor hath *bona fide* prosecuted, to order, upon prayer of the said prosecutor, the treasurer of the county riding or division in which the offence shall have been committed, or shall have been supposed to have been committed, to pay unto such prosecutor such sum of money as to the said court shall seem reasonable, not exceeding the expences which it shall appear to the court the prosecutor was *bona fide* put unto in carrying on such prosecution, making, in case the said prosecutor shall appear to the court to be in poor circumstances, a reasonable allowance to such prosecutor for trouble and loss of time; which order the clerk of assize or clerk of the peace respectively is hereby directed and required forthwith to make out and deliver unto such prosecutor upon being paid for the same the sum of one shilling and no more; and the treasurer of the said county riding or division is hereby authorised and required upon sight of such order forthwith to pay to such prosecutor or other person authorised to receive the same such sum of money as aforesaid, and shall be allowed the same in his accounts.

VIII. And be it further enacted by the authority aforesaid, That it shall and may be in the power of the court where any person shall appear on recognisance or subpoena to give evidence as to any grand or petit larceny or other felony, whether any bill of indictment be preferred or not to any grand jury, provided the said person shall in the opinion of the said court *bona fide* have attended the said court in obedience to such recognisance or subpoena, to order the treasurer of the county riding or division in which the offence shall have been committed, or shall have been supposed to have been committed, to pay unto such person such sum of money as to the said court shall seem reasonable, not exceeding the expences which it shall appear to the said court the said person was *bona fide* put unto by reason of the said recognisance and subpoena, making, in case the said person shall appear to the court to be in poor circumstances, a reasonable allowance to such person for trouble and loss of time; which order the clerk of the assize or clerk of the peace respectively is hereby directed and required forthwith to make out and deliver to such person, upon being paid for the same the sum of sixpence and no more; and the treasurer of the said county riding or division is hereby authorised and required upon sight of such order forthwith to pay to

such person or other person authorised to receive the same such sum of money as aforesaid, and shall be allowed the same in his accounts.

IX. Provided nevertheless and be it further enacted, That it shall and may be lawful for his Majesty's justices of the peace in and for any county riding division city town corporate franchise or liberty in quarter sessions assembled to lay down or alter from time to time such rules and regulations as to any costs or charges thereafter to be allowed to any person whatsoever by virtue of any part of this Act for the better carrying the intent of any part of this Act into execution and for the preventing any unnecessary expence as to them shall seem most just and reasonable; which rules and regulations having received the approbation and signature of one or more of his Majesty's judges of oyer and terminer or general gaol delivery at the assizes for the county wherein such rules and regulations shall have been made shall be binding and not otherwise on all persons whatsoever; and no person whatsoever shall be allowed any greater sum of money by virtue of this Act than according to the said rules and regulations so approved of as aforesaid; any thing herein contained to the contrary thereof in any wise notwithstanding.

X. And be it further enacted by the authority aforesaid, That if any action or suit shall be commenced against any person or persons for any thing done in pursuance of this Act, that then and in every such case the action or suit shall be brought within six calendar months next after the fact committed; and the defendant or defendants in such action or suit may plead the general issue and give this Act and the special matter in evidence at any trial to be had thereupon and that the same was done in pursuance and by the authority of this Act: And if it shall appear so to have been done, the jury shall find for the defendants; and if the plaintiff shall be nonsuit, or discontinue his action after the defendant or defendants shall have appeared, or if judgment shall be given upon any verdict or demurrer against the plaintiff, the defendant and defendants shall and may recover treble costs, and have the like remedy for the same as the defendant or defendants hath or have in other cases by law.

No. II.

18 Geo. III.
c. 19.

Quarter Sessions to make Regulations for allowing, &c. which are to be approved by one of the Judges, &c.

Limitation of Actions.

General Issue.

Treble Costs.

I. Form of awarding Costs.

County or Borough, &c. } I and one (or, we being two) of his Majesty's Justices of the Peace in and for the aforesaid, in pursuance of an Act, made in the eighteenth year of his Majesty King George the Third, intituled *An Act for the Payment of Costs to Parties, on Complaints determined before Justices of the Peace out of Sessions; for the Payment of the Charges of Constables in certain Cases; and for the more effectual Payment of Charges to Witnesses and Prosecutors of any Larceny, or other Felony; on the Complaint of* [here state the Names of the Parties and the Offence generally and the Date] against for which said complaint was heard and determined by on the day of do award the following Costs to be paid by videlicet, [here state the Costs.] Given under hand and seal (or, hands and seals) this day of in the year of our Lord

II. Form of Warrant of Distress and Sale.

to wit. } To the Constable of and to all other his Majesty's Constables in and for in aforesaid.

WHEREAS of his Majesty's Justices of the Peace in and for the aforesaid, in pursuance of an Act made in the eighteenth year of his Majesty King George the Third, intituled *An Act for the Payment of Costs to Parties, on Complaints determined before Justices of the Peace out of Sessions; for the Payment of the Charges of Constables in certain Cases; and for the more effectual Payment of Charges to Witnesses and*

No. II.
18 Geo. III.
c. 19.

‘ *Prosecutors* of any *Larceny*, or other *Felony*; have awarded on the
‘ of now last past, on the
‘ complaint of against for
‘ the following Costs to be paid by
‘ *videlicet*, [here state the Sum:] And whereas the said
‘ being ordered by the said
‘ Justice (or, Justices) to pay such sum (or, sums) as aforesaid, hath not
‘ paid down or given security for the same, to the satisfaction of
‘ the said Justice (or, Justices): These are therefore
‘ to command you and each and every of you to levy the said sum of
‘ by distress and sale of the goods and
‘ chattels of the said and do hereby
‘ order and direct the goods and chattels so to be distrained to be sold
‘ and disposed of within days, unless the said sum
‘ of for which such distress shall be made,
‘ together with the reasonable charges of taking and keeping such dis-
‘ tress shall be sooner paid; and you are hereby also commanded to cer-
‘ tify unto what you shall have done by virtue
‘ of this Warrant. Given under hand and
‘ seal (or, hands and seals) at the
‘ day of in the year of our Lord

III. Constable's Return thereon, for Want of Distress.

to wit. } I constable of
do hereby certify to
‘ Justice (or, Justices) of the Peace of that I
‘ have made diligent search for, but do not know nor can find any
‘ goods and chattels of by distress
‘ and sale whereof I may levy the sum
‘ pursuant to Warrant for that purpose, dated
‘ the day of
‘ Given under my hand, this day of
‘ in

IV. Commitment thereupon to the House of Correction.

to wit. } To the Constable of and also to the
Keeper of the House of Correction at
‘ **WHEREAS**, in pursuance of an Act made in the eighteenth year of
‘ his Majesty King George the Third, intituled *An Act for the*
‘ *Payment of Costs to Parties, on Complaints determined before Justices of*
‘ *the Peace out of Sessions; for the Payment of the Charges of Constables in*
‘ *certain Cases; and for the more effectual Payment of Charges to Wit-*
‘ *nesses and Prosecutors of any Larceny, or other Felony;*
‘ of his Majesty's Justices of the Peace, in and for the said
‘ did issue warrant of distress and sale, directed to
‘ of constable of
‘ the said of ordering the
‘ said constable to levy the said sum of
‘ of the goods and chattels of the said in
‘ manner and form as therein is mentioned: And whereas it appears to
‘ by the return of constable of
‘ dated the day of
‘ that he hath made diligent search, but doth not know of nor can find
‘ any goods and chattels of the said by
‘ distress and sale whereof the said sum of
‘ may be levied, pursuant to the said Warrant: These are therefore to
‘ command you, the said constable of to appre-
‘ hend the said and convey the said
‘ to the said house of correction at
‘ and to deliver the said there to the said
‘ keeper of the said house of correction: And these are also to command
‘ you, the said keeper of the said house of correction, to receive the said
‘ into the said house of correction, and there to

' keep to hard labour for the space of
 ' date hereof, or until such sum of
 ' with the expences attending the commitment of the said
 ' to the said house of correction be first paid, or until
 ' the said be discharged by due course of law.
 ' Given under the hand and seal (or, hands and
 ' seals) at the day of

from the
 together

No. II.
 18 Geo. III.
 c. 19.

[No. III.] 33 George III. c. 55.—An Act to authorize Justices of the Peace to impose Fines upon Constables, Overseers, and other Peace or Parish Officers, for Neglect of Duty, and on Masters of Apprentices for ill Usage of such their Apprentices; and also to make Provision for the Execution of Warrants of Distress granted by Magistrates.—[21st June 1793.]

[Inserted ante, title *Apprentices*, p. 89.]

[No. IV.] 41 George III. c. 78.—An Act to extend the Powers of an Act, passed in the Twenty-seventh Year of the Reign of his late Majesty King George the Second, intituled *An Act for the better securing to Constables and others the Expences of conveying Offenders to Gaol, and for allowing the Charges of Poor Persons bound to give Evidence against Felons*; and for allowing to High Constables, in that Part of the United Kingdom called England, their Charges in certain Cases.—[27th June 1801.]

' WHEREAS by an Act made in the twenty-seventh year of the reign 41 George III.
 ' of his late Majesty King George the Second, intituled *An Act for*
 ' *the better securing to Constables and others the Expences of conveying Of-*
 ' *fenders to Gaol, and for allowing the Charges of Poor Persons bound to*
 ' *give Evidence against Felons*, it is enacted, That when any person, not
 ' having goods or money within the county where he is taken sufficient
 ' to bear the charges of himself and of those who convey him, is com-
 ' mitted to gaol or the house of correction by warrant from any
 ' justice or justices of the peace, then on application by any constable or
 ' other officer who conveyed him to any justice of the peace for the same
 ' county or place, he shall upon oath examine into and ascertain the rea-
 ' sonable expences to be allowed such constable or other officer, and shall
 ' forthwith without fee or reward by warrant under his hand and seal
 ' order the treasurer of the county or place to pay the same, which the
 ' said treasurer is hereby required to do as soon as he receives such
 ' warrant; and any sum so paid shall be allowed in his accounts: And
 ' whereas it is expedient in certain cases that constables specially ap-
 ' pointed by justices of the peace to execute any warrant or warrants
 ' should be paid the reasonable charges and expences incurred by them
 ' as well in respect of searching for and apprehending offenders as in
 ' conveying such offenders to gaol: And whereas it is also expedient
 ' that high constables should in certain cases be allowed the extraordi-
 ' nary charges and expences by them incurred; May it therefore please
 ' your Majesty that it may be enacted, and be it enacted and declared
 ' by the King's most excellent Majesty, by and with the advice and con-
 ' sent of the Lords Spiritual and Temporal and Commons in this present
 ' Parliament assembled, and by the authority of the same, That from and

41 George III.
 c. 78.
 27 Geo. 2. c. 3.

When Special
 Constables shall

be appointed in England to execute Warrants in Cases of Felony, two Justices may
 order proper Allowances to be made for their Expences and Loss of Time, which
 Order shall be submitted to Quarter Sessions.

No. IV;
41 Geo. III.
c. 78.

after the passing of this Act it shall and may be lawful to and for any two justices of the peace for any county city division riding or place within that part of the United Kingdom called *England*, when any person or persons shall have been nominated or appointed a special constable or special constables for the purpose of executing any warrant or warrants in any case or cases of felony, to order by any writing or writings under their hands such proper allowances to be made to such special constable or special constables for his or their expences trouble and loss of time in executing or endeavouring to execute such warrant or warrants as to him or them shall seem reasonable and necessary; which orders shall be afterwards laid before and submitted on the oath of such special constable or constables to the consideration of the justices assembled at the next general quarter sessions of the peace to be holden for such county city division riding or place, as the case may be; and the justices so assembled at such general quarter sessions may allow or disallow the whole or any part or parts of such allowances so ordered by such justices issuing such warrant or warrants, and shall and may thereupon then order and direct the treasurer for such county city division riding or place to pay such sum or sums of money to such special constable or special constables as to the said justices so assembled shall seem reasonable and necessary; and such treasurer shall and he is hereby authorised and required forthwith to pay the sum and sums of money so ordered and directed to be paid to the person or persons empowered to receive the same; and such treasurer shall be allowed the same in his accounts.

Two Justices in like Manner may order Allowances to be made to High Constables in England for extraordinary Expences incurred in the Execution of their Duties, in Cases of Riot or Felony, &c.

II. And be further enacted, That it shall and may be lawful to and for any two justices of the peace within their respective jurisdictions to order and direct by any writing or writings under their hands such reasonable and necessary allowances to be made to any high constable or high constables for any county city division riding hundred or place within that part of the United Kingdom called *England*, for any extraordinary expences incurred by him or them in the execution of their respective duties in any case or cases of tumult riot or felony; and such orders shall be laid before and submitted on the oath of such high constable or constables to the consideration of the justices assembled at the next general quarter sessions of the peace to be holden for such county city division riding or place, as the same may be; and the justices so assembled at such general quarter sessions may allow or disallow the whole or any part or parts of such allowance so ordered, and shall and may then order and direct the treasurer for such county city division riding or place to pay such sum or sums of money to such high constable or high constables as to the said justices so assembled shall seem reasonable; and such treasurer shall and he is hereby authorised and required forthwith to pay the sum or sums of money so ordered and directed to be paid to the person or persons empowered to receive the same; and such treasurer shall be allowed the same in his accounts.

[No. V.] 1 Geo. IV. c. 37.—An Act to increase the Power of Magistrates in the Appointment of Special Constables.—[8th July 1820.]

1 Geo. IV.
c. 37.

WHEREAS doubts have arisen whether any person or persons can be compelled to act as special constables, except in any actual tumult riot or felony: And whereas it is expedient that justices of the peace should have the power of compelling certain persons to act as special constables not only in case of actual tumult riot or felony, but also on the reasonable apprehension thereof for the prevention of the same: Be it enacted and declared by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That from and after the passing of this Act, in all cases where it shall be made to appear to any two or more justices of the peace acting for any county city division riding or place, by the information on oath of

Cases in which Magistrates are empowered to appoint Special Constables;

five respectable householders of such county, city, division, riding, or place, that any tumult riot or felony has taken place or is likely to take place and may reasonably be apprehended, such justices may and are hereby authorized to call upon nominate and appoint by precept in writing under their hands any householders or other persons (not legally exempt from serving the office of constable) residing within their respective divisions or the neighbourhood thereof, to act as special constables for such time and in such manner as to the said justices shall seem fit and necessary for the preservation of the public peace, and for the prevention or suppression of any tumult riot or felony; and the said justices are hereby empowered to administer to such person so appointed the usual oaths administered by law to all special constables.

II. And be it further enacted, That in case any person (not legally exempted as aforesaid) so called upon nominated and appointed by such justices as aforesaid, shall neglect or refuse to take upon themselves the office and to act as such special constable, such person so neglecting or refusing shall be liable to such and the same fines penalties and punishments as persons refusing to take upon themselves the office of constable are now by law subject to.

III. And be it further enacted, That it shall and may be lawful for the justices of the peace assembled at the general or quarter sessions holden for any county, city, division, riding, or place where special constables shall have been called out as aforesaid, to order and direct such reasonable allowances for trouble and expences to be made to any person or persons so called out by authority of this Act as to the said justices shall seem fit, which allowance the said justices may order the treasurer of such county city, division, riding, or place, to pay to such persons as the said justices shall direct; and such treasurer shall and he is hereby authorized and required forthwith to pay the sum or sums of money so ordered and directed to be paid to the person empowered to receive the same, and such treasurer shall be allowed the same in his accounts.

IV. And be it further enacted, That the court before which any indictments may be tried under the provisions of this Act shall have the power to award reasonable costs of trial to such persons as may prefer the said indictments, and may order the treasurer of such county, city, division, riding, or place, wherein such indictment shall be tried, to pay the sum or sums of money so ordered to such persons as the said court shall direct; and such treasurer shall and he is hereby authorized and required forthwith to pay the sum or sums of money so ordered and directed to be paid to the persons empowered to receive the same; and such treasurer shall be allowed the same in his accounts.

V. And be it further enacted, That this Act shall be deemed and taken to be a public Act, and shall be judicially taken notice of as such by all judges justices and others without being specially pleaded.

No. VI.
5 Geo. IV.
c. 28.

who are com-
pelled to act,
under the same
Penalties for
Refusal as
Constables.

Justices at Ses-
sions to give Al-
lowance to said
Special Con-
stables.

Court may al-
low Costs.

Public Act.

[No. VI.] 5 Geo. IV. c. 28.—An Act to amend an Act of the Third Year of His present Majesty's Reign, for the Appointment of Constables in Ireland.—[17th May 1824.]

WHEREAS an Act was made in the third year of the reign of his present Majesty, intituled *An Act for the Appointment of Constables, and to secure the effectual Performance of the Duties of their Office, and for the Appointment of Magistrates in Ireland, in certain cases:* And whereas doubts have arisen whether the provisions of the Act extend to the appointment of constables in and for the county of *Dublin*; and it is essential that constables should be appointed for the said county pursuant to the provisions of the said Act: Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That at any time after the

3 G. 4. c. 103.

Lord Lieu-
tenant empowered to appoint Chief Constable for each Barony, or for any two or more Baronies together, and to require Magistrates to meet and appoint Constables for the County.

No. VI.
5 Geo. IV.
c. 28.

Appointment in
Vacancies.

Powers of Lord
Lieutenant and
Magistrates,
and Duty and
Authority of
Constables un-
der recited Act,
extended to
County of
Dublin.

Police Magi-
strates of Dub-
lin may be ap-
pointed Super-
intendants of
Constables in
Dublin County.

passing of this Act, it shall and may be lawful to and for the lord lieutenant or other chief governor or governors of *Ireland* for the time being, and he and they is and are hereby authorized and empowered, by warrant under his or their hand, to appoint one chief constable for each and every or any barony or half barony, or other division of a barony, or for any two or more baronies lying together, in the county of *Dublin*; and also by proclamation, to be inserted in the *Dublin Gazette*, to require the magistrates in the commission of the peace for the said county of *Dublin* to be assembled in the city of *Dublin*, on a day to be named in such proclamation, and then and there to nominate such number of constables and sub-constables in and for the said county of *Dublin*, as shall be specified in such proclamation, not exceeding in the whole a number after the rate of sixteen for each barony or half barony, or other division of a barony in this the said county of *Dublin*, to be stationed in and through the several baronies and half baronies in the said county; and that the magistrates of the said county of *Dublin* so assembled, ten at least being present, shall proceed to name constables and sub-constables accordingly; and that when any vacancy or vacancies shall arise, the chief constable of the barony or half barony, or other division of a barony on which such vacancy shall arise, shall report the same to the magistrates at the next ensuing quarter sessions for the said county of *Dublin*, and such magistrates shall thereupon proceed to fill up such vacancy or vacancies by appointing another or other constable or constables, or sub-constable or sub-constables, to fill any such vacancy or vacancies as aforesaid, except only in cases otherwise provided for by this Act.

II. Provided always, and be it enacted, That in case of any neglect or omission by the magistrates of the said county of *Dublin* to nominate and appoint any such constables or sub-constables, pursuant to the directions of the said recited Act and this Act, it shall and may be lawful for the lord lieutenant or other chief governor or governors of *Ireland*, to nominate and appoint such constables or sub-constables; and also that it shall and may be lawful for the lord lieutenant or other chief governor or governors of *Ireland* for the time being, from time to time, at his or their pleasure, to remove all or any and every such chief constable or chief constables, and all or every or any such constables or sub-constables, and to give all such directions with respect to the salaries, houses, horses, ammunition, and all other matters and things of and for or belonging to such chief constables constables and sub-constables, in and for the said county of *Dublin*, in like manner as is authorized or required by the said recited Act with respect to any chief constables constables or sub-constables, in and for any county in *Ireland*; and that the magistrates of the said county of *Dublin* shall have all such powers and authorities with respect to the appointment and regulation of such constables and sub-constables, and with respect to the appointment of any further number of constables within the said county, as by the said recited Act are given to or conferred on the magistrates of any county in *Ireland*; and that all chief constables constables and sub-constables for the said county of *Dublin*, to be appointed in pursuance of this Act, shall take such oath, and shall be subject to all such rules and regulations, qualifications, restrictions, disabilities, penalties, and forfeitures, and shall have use and exercise all such power and authorities, and shall exercise and perform the duties of their several offices, in like manner to all intents and purposes as by the said recited Act is authorized required or directed with relation to any chief constable constable or sub constable in any county in *Ireland*, and as if the said county of *Dublin* had been expressly included and mentioned in the said recited Act.

III. And be it further enacted, That it shall and may be lawful for the lord lieutenant or other chief governor or governors of *Ireland*, from time to time, if he shall think fit so to do, to order and direct that any one or more of the divisional justices of the police district of *Dublin* metropolitan, shall and may act as superintendent, or as superintendants, or inspector or inspectors of the chief constable and constables within the county of *Dublin*; and every such justice so to be appointed to act as such

superintendent or inspector of such constables, shall have use and exercise all such powers and authorities, and shall perform such duties within the said county of *Dublin*, as by the said recited Act are vested in or required from any general superintendent or inspector of constables appointed under the authority of the said recited Act.

IV. And for the securing a supply of proper persons to fill the office of constables under the said recited Act and this Act, as the same shall from time to time become vacant; be it enacted, That it shall and may be lawful for any five justices of the peace for the said county of *Dublin*, or for any county in *Ireland*, at any general quarter sessions or general sessions of the peace, regularly and duly assembled, and such justices, at any such sessions, are hereby authorized and required from time to time to nominate any number of persons, as fit and proper persons for the supplying of such vacancies, not exceeding in the whole the number of twenty such persons in any one county, and being qualified to act as constables in manner required by the said recited Act of the third year of his present Majesty's reign, and pursuant to the rules and regulations made and approved of under the authority thereof; and a list of all such persons so from time to time nominated at any such session, shall within ten days after the last day of every such session respectively, be transmitted by the clerk of the peace to the general superintendent or inspector of the chief constables and sub-constables acting for such county.

V. And be it further enacted, That it shall and may be lawful for any general superintendent or inspector of the chief constables and constables appointed under the said Act or this Act in any county, and such superintendent or inspector is hereby authorized and empowered from time to time to appoint out of the persons named in such list, according to the order in which the names shall be inserted in such list, to be constables under the said recited Act in or for any barony or half barony, or other division, in any county committed to the superintendence and inspection of such superintendent and inspector, in which any vacancy or vacancies shall arise by the death or removal of any constable or constables appointed under the said recited Act, or this Act; and every person so appointed shall be and become a constable in and for any barony half barony or other division of a barony, in like manner and under such conditions, to all intents and purposes, as any constable appointed under any of the provisions of the said recited Act or this Act, and shall take such oath as is required to be taken by constables under the said recited Act, and shall have all such powers and authorities, and shall be subject and liable to all such directions, as any other constable appointed under the said recited Act or this Act, and shall have such salary as by the said recited Act is authorized to be paid to any constable appointed under the said recited Act; and whenever any vacancy or vacancies shall be filled up by such superintendent or inspector, in such manner as is authorized and required by this Act, it shall not be necessary for the chief constable of the barony or half barony in which such vacancy shall arise to report the same to the magistrates at the quarter sessions of the county, or for such magistrates to fill up such vacancy or vacancies in manner required by the said recited Act or this Act; any thing in the said recited Act or this Act to the contrary thereof in anywise notwithstanding.

VI. Provided always, and be it enacted, That in case it should happen that no person should be nominated for the supplying of such vacancies in manner required by the said recited Act or this Act, by the justices of the peace at any sessions, or in any case no list of persons so nominated shall be transmitted to the superintendent or inspector of constables in manner required by this Act, or in case the names of a sufficient number of persons for the supplying of any such vacancies in any county, duly qualified as required by the said recited Act, shall not be contained in any such list, then and in either of such cases it shall and may be lawful for such superintendent or inspector, and he is hereby authorized and empowered, to nominate and appoint any person or persons to supply such vacancy or vacancies, being qualified according to the directions of the said recited Act; and such person or persons so nominated and appointed

No. VI.
5 Geo. IV.
c. 28.

Quarter Sessions may nominate Persons qualified for Constables, as under 3 G. 4, c. 103. to succeed in case of Vacancies.

List of such Persons shall be sent to Superintendent or Inspector.

Superintendants may supply Vacancies from among Persons named in such Lists;

and in such Case, Vacancies need not be certified to Sessions.

On failure of Nomination by Sessions, &c., Superintendent may appoint Constables, to be approved of by Lord Lieutenant.

No. VI.
5 Geo. IV.
c. 28.

Fines on Con-
stables by Ma-
gistrates shall
be deducted out
of their Sala-
ries, and carried
to Consolidated
Fund.

Constables re-
fusing to deliver
up Arms, shall
be liable to
Three Months'
Imprisonment,
in lieu of Pe-
nalty under
3 G. 4. c. 103.

On Petition of
Constable ap-
pointed under
recited Act or
this Act, or un-
der 54 G. 3.
c. 131. stating
his being maim-
ed, &c., in
Execution of
his Duty, Lord
Lieutenant may
order Recom-
pense to be paid
out of Consoli-
dated Fund,
One-half to be
repaid by the
County, as un-
der 3 G. 4.
c. 103.

by such superintendant or inspector, having first received the approbation of the lord lieutenant or other chief governor or governors of *Ireland* (to be signified by his or their chief secretary), shall be sworn, and shall be and become a constable or constables to all intents and purposes as any other person or persons appointed to be a constable or constables under the provisions of the said recited Act or this Act.

VII. And be it further enacted, That whenever any penalty shall be imposed or inflicted under the said recited Act by any magistrates upon any chief constable or other constable, for neglecting or refusing to obey or execute any warrant, or for any neglect or violation of duty in his office, it shall and may be lawful for such magistrates, instead of directing that such penalty shall be levied by the distress and sale of the goods and chattels of the party so offending, and such magistrates are hereby authorized and required, in all cases where any salary shall be due to such constable, to certify the conviction or confession of such offender, and the amount of the penalty imposed on such offender, to the chief secretary of the lord lieutenant or other chief governor or governors of *Ireland*; and the amount of any and every such penalty shall and may be stopped and deducted out of the salary due or growing due to such constable, and shall be applied towards the repayment of the sums advanced out of the consolidated fund under the said recited Act, and shall be paid into the receipt of his Majesty's Exchequer in *Ireland*, according to the course of the said Exchequer, and then carried to account accordingly.

VIII. And be it further enacted, That if any chief constable or other constable shall not, within one week after he shall be dismissed from or shall cease to hold and exercise his office, deliver over all and every arms and accoutrements, horse, saddle, bridle, clothing, or appointments supplied to him, under the provisions of the said recited Act, to his successor in such office, if such there shall be, and if not, then to such person and at such time and place as shall be directed by the lord lieutenant or other chief governor or governors of *Ireland* for the time being, upon conviction of such offence before any two or more magistrates, upon the oath of one or more credible witness or witnesses, or upon his own confession, every such offender, in lieu of forfeiting the sum of twenty pounds, inflicted by the said recited Act in such cases, shall be subject and liable to imprisonment in the common gaol or house of correction for any such period, not exceeding the term of three calendar months, as such magistrates shall think proper to direct; and it shall be lawful for such magistrates, and they are hereby authorized and required to commit every such offender accordingly.

IX. And be it further enacted, That upon the petition of any chief constable or constable or sub-constable, appointed and acting under the provisions of the said recited Act or this Act, or appointed and acting under the provisions of an Act made in the fifty-fourth year of the reign of his late Majesty King *George* the Third, intituled *An Act to provide for the better Execution of the Laws in Ireland, by appointing superintending Magistrates and additional Constables in certain cases*, stating that such constable has received any maim wound or hurt, or other grievous injury, in the execution or performance of the duty of his office, whereby he shall be disabled from executing the duty of his office, and upon such certificates as the lord lieutenant or other chief governor or governors of *Ireland* shall require or direct, it shall and may be lawful for such lord lieutenant or other chief governor or governors of *Ireland*, to order that any such sum or sums as he or they shall think proper, shall be paid as an annual remuneration or superannuation to such constable, not exceeding in any case the amount of two-thirds of the salary of such constable upon such conditions and in such manner as such lord lieutenant or other chief governor or governors shall order and direct, and also to order that any such sum or sums shall from time to time be advanced and paid out of the produce of the consolidated fund of the United Kingdom of *Great Britain and Ireland* arising in *Ireland*; and that the amount of one moiety or half part of all such sums shall be repaid by the county, city, town, barony, or half barony, for which such constable shall have been ap-

pointed, in like manner and under the like regulations as by the said recited Act of the third year of the reign of his present Majesty is directed with respect to the payment of one moiety of any sums advanced for the purpose of paying the salary of any constable under the said recited Act.

X. And whereas by an Act made in the fifty-fifth year of the reign of his late Majesty King George the Third, intituled *An Act to enable Grand Juries to present additional Sums for Constables in Ireland, and for the secure Conveyance of Prisoners*, it is amongst other things provided, that it shall and may be lawful to and for the lord lieutenant or other chief governor or governors of *Ireland*, in his or their discretion, on the petition of any constable appointed or continued under either of the Acts therein mentioned, supported by the recommendation of the grand jury of the county within which such constable shall be appointed, and by such certificates as such lord lieutenant or other chief governor or governors of *Ireland* shall require or direct, of the continuance of the service of such constable, and of his having executed the duty of his office with diligence and fidelity, to order that such constable shall and may be superannuated, and shall and may receive such yearly allowance remuneration and superannuation, as to such lord lieutenant or other chief governor or governors of *Ireland* shall seem fitting and proper, upon the conditions and not exceeding the proportions in the said Act mentioned: And whereas under the provisions of the said Act the proportion of salary which any such constable may so receive depends on his age his infirmities of mind or body and the length of his service: And whereas there are in *Ireland* divers persons who have been from time to time appointed constables by grand juries under certain other Acts of Parliament; but doubts are entertained whether such persons are within the provisions of the said last recited Act, by reason whereof it has happened that many persons have been prevented from receiving such superannuations, who have in reason and justice the strongest claims thereto; for remedy whereof, be it enacted, That from and after the passing of this Act, it shall and may be lawful to and for the lord lieutenant or other chief governor or governors of *Ireland* for the time being, on the petition of any person holding, or having at any time held the office of a constable or sub-constable by or under the appointment of any grand jury in *Ireland*, supported by such recommendation and certificates or certificate as aforesaid respectively, to order that such person shall and may be or remain superannuated, and shall and may receive such yearly allowance remuneration and superannuation, as to such lord lieutenant or other chief governor or governors shall seem fitting and proper, upon the conditions and not exceeding the proportions in the said Act mentioned: Provided always, that in estimating the amount of any such allowance and superannuation, the salary payable to constables under the said last recited Act of the fifty-fifth year of the reign of his late Majesty, shall be deemed taken and considered as the salary of such person, and not any greater or other salary which such person may at any time have had; and that in estimating the length of service of any such person, all and every time and period during which such person hath or shall have served in the office of a constable or sub-constable, by or under the appointment of the grand jury of his proper county, under any Act of Parliament whatsoever, shall and may be taken into account and applied to his credit, so as that he shall have the full benefit thereof in such computation of the length of his service.

XI. And be it further enacted, That this Act may be altered amended or repealed by any Act or Acts to be passed in this present session of Parliament.

No. VII.
7 & 8 Geo. IV.
c. 38.
55 G. 3. c. 158.

In what manner Grand Jury Constables shall be superannuated, and the Mode of calculating their Salary and Term of Service.

Act may be altered this Session.

[No. VII.] 7 & 8 Geo. IV. c. 38.—An Act for discontinuing certain Presentments by Constables.—[21st June 1827.]

WHEREAS in some parts of *England* the petty constables of the several parishes have, from a very remote period, been required to

No. VIII.
9 Geo. IV.
c. 63.

No Constable
shall be required
to make Pre-
sentments re-
specting the
Offences herein
mentioned.

appear at a petty session held previously to every general gaol delivery and quarter session for the county in which such parishes are situate, and to make and sign before the justice or justices of the peace attending such petty sessions certain presentments of various indictable and other offences: And whereas the said presentments are attended with considerable expence and loss of time, and have, in consequence of modern legislative provisions, become useless and improper: Be it therefore enacted, by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That from and after the passing of this Act, no petty constable shall be required at any petty session or elsewhere to make, nor shall any high constable be required at any general gaol delivery, great session, or general or quarter session of the peace in *England* to deliver any presentment respecting popish recusants, persons absenting themselves from their parish church or any other place of religious worship licensed by authority, rogues and vagabonds, inmates, retailers of brandy, ingrossers, forestallers, regraters, profane swearers and cursers, servants out of service, felonies and robberies, unlicensed or disorderly alehouses, false weights and measures, highways and bridges, riots, routs, and unlawful assemblies, and whether the poor are well provided for, and the constables are legally chosen and sworn.

[No. VIII.] 9 Geo. IV. c. 63.—An Act to amend two Acts of the Third and Fifth Years of His present Majesty, for the Appointment of Constables in *Ireland*.—[15th July 1828.]

3 G. 4. c. 103.

5 G. 4. c. 28.
§ 1.

3 G. 4. c. 103.
§ 13.

WHEREAS an Act was passed in the third year of the reign of his present Majesty, intituled *An Act for the Appointment of Constables, and to secure the effectual Performance of the Duties of their Office, and for the Appointment of Magistrates, in Ireland, in certain Cases*, which said Act was amended and extended to the county of *Dublin* by another Act passed in the fifth year of the same reign: And whereas the lord lieutenant or other chief governor or governors of *Ireland* for the time being is and are by the said Acts authorized and empowered, by warrant under his or their hand, to appoint one chief constable for each and every or any barony or half barony, or other division of a barony, or for any two or more baronies lying together and being in the same county in *Ireland*, and also, by proclamation to be inserted in the *Dublin Gazette*, to require the magistrates in the commission of the peace for any county in *Ireland* to nominate, in the manner in the said Acts respectively prescribed, such number of constables and sub-constables in and for such county as shall be specified in such proclamation, not exceeding in the whole, in any county, a number after the rate of sixteen for each barony or half barony, or other division of a barony, within such county, to be stationed in and through the several baronies and half baronies in such counties; and it is, amongst other things, enacted by the said Act of the third year of his Majesty's reign, that the lord lieutenant or other chief governor or governors of *Ireland* for the time being, may order and direct that any person, having been appointed a constable under the said Act for any county, shall go into and be a constable in and for any barony or baronies or half barony, or other division of a barony, in such county; and that any such constable, or any number of the constables or sub-constables, appointed under the said Act, for any county, or any barony or baronies, or divisions of a barony, at any time or times, shall go or repair to such place or places in any other county or counties, or in any county of a city or county of a town, or city and liberties, or barony or baronies, or division of a barony, in *Ireland*, as shall be mentioned in such order; provided that not more than two-third parts of the existing establishment of constables for any one county city or town shall be so removed or absent from such county city or town at any one time: And whereas it is expedient that such power

of removal should be extended and enlarged, and that the said Acts should in other respects be amended; be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That from and after the passing of this Act it shall and may be lawful to and for the lord lieutenant or other chief governor or governors of *Ireland* for the time being, from time to time, when and as often as he or they shall think fit so to do, to order and direct that every or any chief or other constable, or that the whole or any number of chief or other constables, or of sub-constables, appointed under the said recited Acts or either of them, for any county, or any barony or baronies, or division of a barony, in any county in *Ireland*, at any time or times, shall go and repair to such place or places in any other county or counties, or in any county of a city or county of a town, or city and liberties, or barony or baronies, or division of a barony, in *Ireland*, as shall be mentioned in such order, and shall remain there for such length of time, or remove to or remain at any other place or places in the same or any other county city or town, for such time and times, and shall return to his or their original county city or town, at such time and times respectively as shall be mentioned or directed in or by such order, or by any other order or orders which may from time to time be made by the lord lieutenant or other chief governor or governors of *Ireland* for the time being; and that such chief and other constables and sub-constables, when so removed, shall have the same rights powers and authorities, and be subject to the same rules regulations and orders, and be in all respects in the same situation in the county or other districts to which they shall be so removed, as if they had been originally appointed in and for such county or district.

II. And be it further enacted, That it shall and may be lawful for the lord lieutenant or other chief governor or governors of *Ireland* for the time being, by warrant under his or their hand or hands from time to time, as shall appear to him or them fitting, to order and direct that any chief constable already appointed or hereafter to be appointed shall be and act as a chief constable in and for such part or district of, or in any county, county of a city, or county of a town, as shall be mentioned and described in such warrant, whether such part or district shall or shall not consist of a barony or baronies or half barony, or other division of a barony; and in like manner from time to time to enlarge diminish or alter such districts, in any way which to him or them shall appear to be expedient; and that such chief constables shall, in such their respective districts for the time being, have use and exercise such and the like powers, duties, rights, and authorities, and shall be subject to the same and the like rules, regulations, directions, and liabilities, in all respects, as such chief constables now have, use, exercise, or are subject to, or would have used exercised or been subject to, with respect to any barony or baronies or half barony, or division of a barony, under the said Acts or either of them.

III. And whereas inconvenience has frequently been experienced in consequence of the sudden resignation of constables under circumstances in which their services have been particularly required; be it enacted, That from and after the passing of this Act no constable or sub-constable, who shall have been or shall be appointed under the said recited Acts or either of them, or this Act, shall be at liberty to resign his office, or to withdraw himself from the duties thereof, unless expressly authorized so to do, in writing, by the chief constable for the time being, or unless he shall have given to such chief constable one month's notice at least of his intention of so resigning or withdrawing himself; and if any constable or sub-constable shall so resign or withdraw himself, without such previous permission, or without such notice as aforesaid, he shall for such offence forfeit and pay the sum of five pounds, upon conviction before a justice of the peace; and it shall and may be lawful for such justice, in case such penalty shall not be paid, to commit such person to the common gaol or house of correction for any period not exceeding three calendar months;

No. VIII.

9 Geo. IV.
c. 63.

Lord Lieutenant
may order the
Removal of the
Chief Constable,
and of the
whole of the
Constables,
from one County
to another,
&c.

Lord Lieutenant
may order
Chief Constable
to act for any
Part or District
of a County.

Constables shall
not resign without
leave of
Chief Constable,
or One
Month's Notice
of Resignation.

No. VIII.

9 Geo. IV.

c. 63.

Accounts of the
Number of
Constables and
of their Salaries
to be laid before
Grand Juries.

and all penalties so to be levied shall be paid to the paymaster of the county, for the use of the establishment.

IV. And be it further enacted, That at each spring and summer assize after the passing of this Act, there shall be laid before the grand jury of each county city or town, an account, signed by the chief secretary of the lord lieutenant, or the under secretary, stating respectively the number of chief and other constables serving in such county city or town, and the sums respectively paid since the preceding assize for the salaries and expences of such constables, and for the providing or repairing the arms the clothing and the accoutrements of the same.

PART VI.**CLASS X.**

Costs.

18 George III. c. 19.—An Act for the Payment of Costs to Parties, on Complaints determined before Justices of the Peace out of Sessions; for the Payment of the Charges of Constables in certain Cases; and for the more effectual Payment of Charges to Witnesses and Prosecutors of any Larceny or other Felony.

[Inserted note, title *Constables*, p. 129.]

PART VI.

CLASS XI.

County Rate.

[No. I.] 12 Geo. II. c. 29.—An Act for the more easy assessing, collecting and levying of County Rates.

12 George II.
c. 29.

22 Hen. 8. c. 5.
1 Anne, stat. 1.
c. 18.

11 & 12 W. 3.
c. 33.

7 Jac. 1. c. 4.

‘ WHEREAS by an Act passed in the twenty-second year of the reign of King *Henry* the Eighth for repairing and amending bridges and highways: And whereas by another Act passed in the first year of the reign of her late Majesty Queen *Anne* to explain and alter the said Act, it is for the more easy taxing and collecting the money for the repair of such bridges and highways thereunto adjoining (amongst other things) enacted, That the justices of the peace within the several limits of their commissions shall at their general or quarter sessions of the peace have full power and authority, upon due presentment to them made that any bridge within their respective commissions or authorities is out of repair and which by them hath usually or ought to have been repaired and maintained, to make assessments upon every town parish or place within their respective commissions for that purpose, in proportions upon each respective town and parish as they usually have been assessed towards the repair of bridges; which assessments are to be levied and collected in the manner prescribed by the said Act: And whereas by an Act passed in the eleventh and twelfth years of the reign of his late Majesty King *William* the Third, to enable justices of the peace to build and repair gaols in their respective counties, it is (amongst other things) enacted, That it shall and may be lawful for the justices of the peace or the greater number of them within the limits of their commissions, upon presentment of the grand jury or grand juries at the assize great sessions and general gaol delivery held for the same county, of the insufficiency or inconvenience of their gaol or prison, to conclude and agree upon such sum or sums of money as upon examination of able and sufficient workmen shall be thought necessary for the building finishing and repairing a public gaol or gaols belonging to the shire or county whereof they are justices of the peace; and by warrant under their hands and seals or under the hands and seals of the greater number of them, by equal proportions to distribute and charge the sum or sums of money to be levied for the uses aforesaid upon the several hundreds, lathes, wapentakes, rape, ward, or other division of the said county in the manner prescribed by the said Act; which said Act was revived and continued by an Act passed in the tenth year of the reign of her late Majesty Queen *Anne* for seven years and to the end of the then next session of Parliament, and made perpetual by an Act of the sixth year of the reign of his late Majesty King *George* the First: And whereas by an Act passed in the seventh year of the reign of King *James* the First, for the due execution of divers laws and statutes heretofore made against rogues vagabonds and sturdy beggars and other lewd and idle persons, it is (amongst other things) enacted, That there shall be erected built or otherwise provided within every county of this realm of *England* and *Wales*, where there is not one house of correction already built provided or continued, one or more fit and convenient house or houses of correction by the justices of the peace or the more part of them at their respective quarter sessions; and that the master or governors of the said houses of correction shall have such sums

of money yearly as shall be thought meet by the said justices; the same to be paid quarterly before hand by the treasurers appointed by an Act made in the three-and-fortieth year of the late Queen *Elizabeth*, intituled, *An Act for the Relief of the Poor*; which said Act was to continue for seven years and till the end of the next session of Parliament, and was further continued by an Act passed in the third year of the reign of King *Charles* the First, intituled *An Act for the Continuance and Repeal of divers Statutes*, unto the end of the first session of the next Parliament; and by an Act passed in the sixteenth year of the same reign continued in force until repealed by some other Act of Parliament: And whereas by an Act passed in the forty-third year of the reign of Queen *Elizabeth*, intituled *An Act for the Relief of the Poor*, it is (amongst other things) enacted, That the justices of the peace of every county or place corporate or the more part of them in their general sessions to be holden next after the Feast of *Easter*, and so yearly as often as they shall think meet, shall rate every parish to such a weekly sum of money as they shall think convenient, so as no parish be rated above the sum of sixpence nor under the sum of an halfpenny weekly to be paid, and so as the total sum of each taxation of the parishes in every county amount not to above the rate of two pence for every parish within the said county: and it is thereby likewise enacted, That the justices of the peace at their general quarter sessions to be holden at the time of such taxation shall set down what competent sums of money shall be sent quarterly out of every county or place corporate for the relief of the poor prisoners of the *King's Bench* and *Marshalsea*; and also of such hospitals and alms-houses as shall be in the said county, and what sums of money shall be sent to every one of the said hospitals and alms-houses; so as there be sent out of every county yearly twenty shillings at the least to each of the said prisons of the *King's Bench* and *Marshalsea*; which sums are rateably to be assessed upon every parish and to be levied and collected as in and by the said Act is directed: And whereas by an Act passed in the fourteenth year of the reign of Queen *Elizabeth*, intituled *An Act how Vagabonds shall be punished and the Poor relieved*, it is enacted, That the justices of the peace of every county or the more part of them in their general quarter sessions shall rate every parish at such reasonable sums of money for the relief of prisoners as they shall think convenient, so as no parish be rated above six pence or eight pence weekly; and the churchwardens of every parish shall levy the same every *Sunday*, and once in every quarter pay the said sums to the high constable or other head officers; and the said high constables and head officers shall pay the money received of the said churchwardens to such person as shall be appointed by the said justices in sessions, to be by them distributed weekly for the relief of prisoners; so much of which said Act as relates to the taxing levying receiving and employing of gaol money was revived and continued to the end of the next session of Parliament by an Act passed in the first year of the reign of King *James* the First, intituled *An Act for continuing and reviving of divers Statutes and for repealing of some others*; and was further continued by an Act passed in the twenty-first year of the reign of the said King *James*, intituled *An Act for continuing and reviving of divers Statutes and repealing of divers others*; and was further continued to the end of the next session of Parliament by an Act passed in the third year of the reign of King *Charles* the First, intituled *An Act for the Repeal and Continuance of divers Statutes*; and by an Act passed in the sixteenth year of the same reign was continued in force until repealed by some other Act of Parliament: And whereas by an Act passed in the nineteenth year of the reign of King *Charles* the Second, intituled, *An Act for Relief of poor Prisoners and setting them on Work*, it is (amongst other things) enacted, That the justices of the peace at their general sessions or the major part of them if they think fit may provide a stock of materials for setting poor prisoners on work, in such manner and by such ways as other county charges are levied and raised, and provide and pay fit persons to oversee such work

No. I.

12 Geo. II.

c. 29.

12 Annæ. st. 2.

c. 23.

Justices to
make general
Assessment, in-
stead of the
several Rates
appointed by
several Acts.

The Power of
the Justices is
extended to

13 Geo. 2. c. 18.

'and make such orders concerning the premises as they from time to time shall think fit, provided that no parish be rated above six pence by the week towards the premises: And whereas an Act passed in the twelfth year of the reign of her late Majesty Queen Anne for reducing the laws relating to rogues sturdy beggars and vagrants into one Act of Parliament, and for the more effectual punishing such rogues vagabonds sturdy beggars and vagrants and sending them whither they ought to be sent, it is (amongst other things) enacted, That the justices of the peace at their quarter sessions may from time to time when need shall be, by such ways and means as monies for county gaols or bridges may be raised, cause such sums of money to be raised within their respective precincts and jurisdictions for the passing and conveying or maintaining of rogues and vagabonds as shall be necessary for those purposes: which said several rates when collected are to be paid by virtue of the said several Acts into the hands of treasurers or receivers to be appointed by the justices at their respective general or quarter sessions of the peace, and to be accounted for as in and by the said several respective Acts are recited: And whereas it is apparent that the manner and methods prescribed by the said several Acts for collecting some of the said rates are impracticable, the sums charged on each parish in the respective divisions being so small that they do not by an equal pound rate amount to more than a fractional part of a farthing in the pound on the several persons thereby rateable; and if possible to have been rated, the expence of assessing and collecting the same would have amounted to more than the sum rated: And whereas many and great doubts difficulties and inconveniences have arisen in making and collecting other of the said rates; therefore that the good ends and purposes of the said several statutes may be answered and the several sums of money thereby intended to be raised may effectually be collected with as much ease and certainty and as little expence as can be to the parties obliged by the said laws to pay the same; Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That from and after the first day of September one thousand seven hundred and thirty-nine the justices of the peace in that part of Great Britain called England, within the respective limits of their commissions at their general or quarter sessions, (1.) or the greater part of them then and there assembled, shall have full power and authority from time to time to make one general rate or assessment for such sum or sums of money as they in their discretions shall think sufficient to answer all and every the ends and purposes of the before-recited Acts, instead and in lieu of the several separate and distinct rates directed thereby to be made levied and collected; which rate shall be assessed

(1.) A Charter granting jurisdiction to Borough Justices over a district not within the borough, without words of exclusive jurisdiction, does not exclude the County Justices from rating the district to a County Rate: therefore, where, by Charters Ed. 4. & H. 7. to the Borough of Leicester, the Borough Justices have exclusive jurisdiction within the Borough, with a non-intromittant as to the County Justices; and by another Charter, Eliz. all houses, &c. within the Parish of St. Mary in Leicester, are put upon the government and jurisdiction of the Borough Justices, saving to all persons their rights and jurisdictions: Held: that the Justices for the County of Leicester might well impose a County Rate upon a part of the parish of St. Mary, which lies within the County, and not within the Borough, although a Rate in the nature of a County Rate had been previously imposed for the same time by the Borough Justices; and although it

appeared that in one instance only, in 1684, this part of the parish had contributed to the Rate for the County at large, and that from 1768 to the present time, Rates in the nature of County Rates had been assessed upon the parish at large by the Borough Justices; for before the Charter of Eliz. this part of the parish could not have been contributory to the Borough Rates, and must have been by law contributing to the County Rates, and the Charter did not vary the place to which it should contribute from the County to the Borough; and though there was no poor rate, or petty constable, or other peace officer for this part of the parish, out of which the rate might be levied by Stat. 12 Geo. 2. c. 29. yet the Statute does not on that account transfer the right from the County to the Borough Justices, and the 44 Geo. 2. c. 84. § 9 (local act) supplies any defect which there might be in 12 Geo. 2. c. 29. to warrant the levy. *Bates v. Winstanley*, 4 M. & S. 429.

upon every town parish or place within the respective limits of their commissions in such proportions as any of the rates heretofore made in pursuance of the said several Acts have been usually assessed; and the several and respective sums so assessed upon each and every town parish or place within the respective limits of their commissions shall be collected by the high constables of the respective hundreds and divisions in which any town parish or place doth lie in such manner and at such times as is herein-after directed.

II. And that the respective sum or sums so to be assessed and collected may be well and truly paid to the respective high constables, Be it further enacted by the authority aforesaid, That the churchwardens and overseers of the poor for the time being of each and every parish and place within the respective counties cities and liberties in which they respectively lie, shall and they are hereby required out of the money collected or to be collected for the relief of the poor of such parish or place, to pay to the high constables of the respective hundreds or divisions of the said counties cities and liberties the respective sum or sums of money so rated and assessed upon such parish or place within the space of thirty days after demand thereof made in writing to be given to the said churchwardens or overseers of the poor or any of them, or left at their or either of their dwelling-house or houses or affixed on any of the church-doors of such parish or place to which such officer shall belong, by the said high constable or high constables of the respective hundreds or divisions; which demand the respective high constable or high constables is and are hereby required to make at such times as the said justices of the peace or the greater part of them shall by their order in sessions direct; and the receipt or receipts of such high constable or high constables shall be a full and sufficient discharge to such churchwardens and overseers of the poor or other person paying the same, and shall be allowed in their accounts as such by the justices of the peace before whom such account shall be passed: And in case such churchwardens and overseers of the poor or any of them shall neglect or refuse to pay any the sum or sums of money hereby assessed after demand made as aforesaid, such high constable or high constables shall and they are hereby empowered to levy the same by distress and sale of the goods and chattels of such churchwardens and overseers or either of them, so refusing or neglecting to pay the same as aforesaid, by warrant under the hands and seals of two or more justices of the peace of the county riding division city town corporate liberty or place residing in or near such parish or place; rendering the overplus, if any there shall be after deducting the money assessed and the charges of the distress and sale, to the owner or owners thereof.

III. Provided nevertheless and be it enacted by the authority aforesaid, That in case no rate is or shall be made for the relief of the poor in any parish township or place, the justices of the peace in their respective general or quarter sessions, or the greater part of them then and there assembled, shall and may by their order direct the sum of money assessed on such parish township or place for the purposes of this Act to be rated and levied on any such parish township or place by any petty constables or other peace officer of or belonging to the same in such manner as money for the relief of the poor is by law to be rated or levied; which sum so rated and levied shall be paid by such petty constable or other peace officer to the respective high constable for the hundred division or liberty wherein such parish township or place shall lie, and shall be demanded of paid by or levied on such petty constable or other peace officer in the same manner as any rates are herein-before directed to be demanded of paid by and levied on the churchwardens and overseers of the poor or any of them; and if such petty constable or other peace officer shall pay such sum before the same shall be so by him rated and levied as aforesaid, he may afterwards rate and levy the same or shall and may be allowed and reimbursed the said sum of money out of any constables or other rate made or to be made on any such parish township or

No. 1.

12 Geo. II.

c. 29.

To be paid out
of the Poor's Rate
of every
Parish to the
High Constable;

or to be levied
on them by
Distress.

Where there is
no Poor's Rate
the Petty Constable
of the
Place to levy
and pay the
County Rate.

No. I.
12 Geo. II.
c. 29.

Counties ex-
cepted from
paying the Rate
of this Act out
of the Poor's
Rate.

Proviso in fa-
vour of Places
heretofore not
paying County
Rates.

High Constables
to pay the
Monies to the
Treasurers ap-
pointed by the
Quarter Ses-
sions,

place which the said justices of the peace or the greater part of them in their sessions shall order and direct. (2.)

IV. 'And whereas it will be very inconvenient to many towns parishes and places in the several counties of *York Derby Durham Lancaster Chester Westmoreland Cumberland and Northumberland*, that the rates by this Act directed to be paid by and levied on the churchwardens and overseers of the poor for the purposes aforesaid should be paid out of any rate to be made for the relief of the poor in such towns parishes and places; Be it therefore enacted by the authority aforesaid, That it shall and may be lawful to and for the justices of the peace for the respective ridings divisions or counties of *York Derby Durham Lancaster Chester Westmoreland Cumberland and Northumberland* at their respective general or quarter sessions, or the greatest part of them then and there assembled, if they shall think convenient, to order the sum of money directed to be assessed on any such town parish or place for all or any of the purposes of this Act to be paid by and levied on the petty constable of or for any such town parish or place within the said counties respectively, in such manner as the same is herein directed to be paid and levied in cases where no rate is made for the relief of the poor; any thing herein contained or any law usage or custom to the contrary notwithstanding.

V. Provided always and be it enacted by the authority aforesaid, That this Act or any thing herein contained shall not extend or be construed to extend to make any persons liberties divisions or places liable to pay to any rate to be made in pursuance of this Act, to which such person liberty division or place did not or was not liable to contribute before the passing hereof; but that it shall and may be lawful to and for the justices of the peace at their respective general or quarter sessions, or the greater part of them then and there assembled, to order and ascertain what proportion of any rate to be made by virtue of this Act shall be assessed on and paid by the several persons liberties divisions and places who have usually contributed or are liable to pay only to one or more of and not to all the rates hereby intended to be raised and thrown into one general rate or assessment.

VI. And be it further enacted by the authority aforesaid, That the respective high constables shall and they are hereby required at or before the next general or quarter sessions respectively, after they or any of them shall have received such sum or sums of money, to pay the same into the hands of such person or persons (being resident in any such county riding division city liberty or place where such rates shall be respectively made) whom the said justices shall at their respective general or quarter sessions, or the greater part of them then and there assembled, appoint to be the treasurer or treasurers (which treasurer or treasurers they are hereby authorised and empowered to nominate and appoint), such treasurer or treasurers first giving sufficient security in such sums as shall be approved of by the said justices at their respective general or quarter sessions, or the greater part of them then and there assembled, to be accountable for the several and respective sums of money which shall be respectively paid to them in pursuance of this Act, and to pay such sum or sums of money as shall be ordered to be paid by the justices in their general or quarter sessions, and for the due and faithful executions of the

(2.) Where, before the Stat. 12 Geo. 2. c. 29. the County Rates had been assessed upon the entire district or place of Hartishead with Clifton; but the two townships of H. & C. separately maintained their own poor, and were used to contribute towards the County Rates in certain fixed proportions between themselves; yet, as that Statute only establishes the accustomed proportion of contribution to the County Rates as between the entire districts which were before assessed to such Rates within the limits of the respective Counties, &c. and does not meddle with the proportions which had used to be observed as

between the subdivisions of those districts, this case was by the Court held to fall within the third section, which provides that where there is no poor's rate in the parish, township, or place assessed to the County Rates (by which must be understood no entire poor's rate co-extensive with the place or district assessed to the County Rates) the County Rates shall be raised by the petty constables in such manner as by law the poor's rate is to be assessed and levied; that is, by an equal rate on all the inhabitants, &c. *Rex v. West Riding of Yorkshire (Justices)*, 12 E. R. 117.

trusts reposed in him or them; and all and every such sum or sums of money as shall be paid into his or their hands by virtue of and in pursuance of this Act shall be deemed and taken to be the publick stock; and the said treasurer or treasurers shall and are hereby required to pay so much of the money in their hands to such person and persons as the said justices at their respective general or quarter sessions, or the greater part of them then and there assembled, shall by their orders from time to time direct and appoint, for the uses and purposes of the said recited Acts, and for any other uses (3.) and purposes to which the publick stock of any county city riding division or liberty is or shall be applicable by law.

VII. And be it further enacted by the authority aforesaid, That the said respective treasurer or treasurers shall and are hereby required to keep books of entries of the several sums respectively received and paid by him or them in pursuance of this Act; and is and are also hereby required to deliver in true and exact accounts upon oath if required (which oath the said justices at their respective general or quarter sessions are hereby empowered to administer) of all and every the sum and sums of money respectively received and paid by him or them, distinguishing the particular uses to which such sum or sums of money have been applied, to the justices at every general or quarter sessions respectively to be holden within the limits of their commissions; and shall lay before the justices at such sessions the proper vouchers for the same.

VIII. And be it further enacted by the authority aforesaid, That the respective high constables shall and they are hereby required to demand and levy such rates and assessments in manner before directed, and shall account for the same before the said justices at their respective general or quarter sessions if thereunto required, in the like manner as the said treasurer or treasurers is and are hereby directed to account; and in case such high constables or any of them shall neglect or refuse so to demand levy or account, then it shall and may be lawful to and for the said justices at their respective general or quarter sessions or the greater part of them then and there assembled, to commit such high constable or high constables to the common gaol of the county riding division city town corporate liberty or place, there to remain without bail or mainprize until he or they shall have caused such rates or assessments to be demanded or levied, and shall have rendered a true account or accounts in the manner hereby directed; and in case it shall appear by such account or accounts that any sum or sums of money is or are remaining in his or their hands, which he or they shall have received of the respective churchwardens and overseers or other persons which ought to have been paid to the respective treasurer or treasurers at the time or times limited by this Act, or of the respective treasurer or treasurers, in order to be applied to the purposes aforesaid; and if he or they shall neglect or refuse to pay the same over into the hands of the respective treasurer or treasurers, or otherwise if thereunto required by order of the said justices at their respective general or quarter sessions, or the greater part of them then and there assembled; then it shall and may be lawful for the said justices at such their general or quarter sessions, or the greater part of them then and there assembled, to commit such high constable or high constables to the common gaol of the county riding division city town corporate liberty or place, there to remain without bail or mainprize until he or they shall have made full payment of the sum or sums of money that shall appear to be due on such account or accounts; and all the accounts and vouchers of the said treasurers and high constables shall, after having been passed by the said justices at their respective general or quarter sessions, be deposited with the clerk of the peace for the time being of each county respectively, or the town clerk high bailiff

No. I.

12 Geo. II.
c. 29.

and they to
whom the Jus-
tices shall di-
rect.

Treasurers to
keep Books of
Entries, and ac-
count upon
Oath.

High Consta-
bles' Charge.

Penalty on De-
fault.

Vouchers to be
kept among the
Records of the
County, &c.

(3.) The Sessions may order Money to be paid out of the County Rate to defend the County, in litigating a fine imposed on them: *Rex v. Inhab. of Essex*, 4 T. R. 591; not for the

expences of a Prosecution for a Misdemeanor, carried on under the direction of Justices of the County: *R. v. West Riding of York*, 7 T. R. 377.

No. I.
12 Geo. II.
c. 29.

What shall be
their respective
Discharge.

The Condition
on which new
Rates are to be
made.

Treasurer to be
continued or
removed at the
Will of the
Quarter Ses-
sions.

Parishes over-
rated to appeal.

No Repairs of
Bridges, &c. but
upon Present-
ments of the
Grand Jury.

Justices to con-
tract with Per-
sons for public
Repairs;

or chief officer of any city town corporate or liberty, who is and are hereby required to keep them among the records of such county city town corporate or liberty, to be inspected from time to time by any of the said justices within the limits of their commissions as occasion shall require without fee or reward.

IX. And be it further enacted by the authority aforesaid, That the receipts of such respective treasurer or treasurers shall be sufficient discharges to all high constables; and the discharges of the said justices of the peace or the greater part of them by their orders made at their respective general quarter sessions to such treasurer or treasurers shall be deemed and allowed as good and sufficient releases acquittances or discharges in any court of law or equity to all intents and purposes whatsoever.

X. And be it further enacted by the authority aforesaid, That no new rate shall be made until it shall appear to the said justices at their respective general or quarter sessions, or the greater part of them then and there assembled, by the accounts of their respective treasurer or treasurers or otherwise, that three-fourths of the money collected by virtue of the preceding rate have been expended for the uses and purposes aforesaid.

XI. And be it further enacted by the authority aforesaid, That it shall and may be lawful to and for the said justices of the peace at their respective general or quarter sessions, or the greater part of them then and there assembled, to continue from time to time such treasurer or treasurers in his or their office or offices so long as they shall see convenient, and to remove him or them at their pleasure, and appoint any other person or persons in his or their place: and to allow to him or them and every of them insisting on the same such reasonable sum or sums of money for his or their care and pains in the execution of such trust, not exceeding twenty pounds by the year, as they in their discretions shall think fit; which they are hereby empowered to direct the payment of out of the monies arising by the respective rates hereby appointed to be made.

XII. And be it further enacted by the authority aforesaid, That in case the churchwardens and overseers of any parish or place shall at any time have reason to believe the said parish or place is over-rated, such churchwardens and overseers may appeal to the respective justices of the peace at the next general or quarter sessions against such part of the rate only as may affect the parishes or places in which they serve such offices; which justices or the greater part of them then and there assembled are hereby authorised and empowered to hear and finally determine the same: Provided nevertheless, That upon such appeal such rate shall not be quashed or destroyed in regard to any other parishes or places assessed thereby.

XIII. And be it further enacted by the authority aforesaid, That no part of the money to be raised and collected in pursuance of this Act shall be applied to the repair of any bridges gaols prisons or houses of correction, until presentments be made by the respective grand juries at the assize great sessions general gaol delivery or general or quarter sessions of the peace held for any county riding division city town corporate or liberty, of the insufficiency inconveniency or want of reparation of their bridges gaols prisons or houses of correction.

XIV. And be it further enacted by the authority aforesaid, That from and after the first day of June one thousand seven hundred and thirty-nine, when any publick bridges ramparts banks or cops or other works are to be repaired at the expence of any county city riding hundred division liberty or town corporate; it shall and may be lawful to and for the justices of the peace at their general or quarter sessions respectively, or the greater part of them then and there assembled, if they think proper and convenient after presentment to be made as aforesaid of the want of reparation of such bridges ramparts banks or cops, to contract and agree with any person or persons for rebuilding repairing and amending of such bridges ramparts banks or cops as shall be within their respective coun-

ties cities ridings hundreds divisions liberties or towns corporate, and all other works which are to be repaired and done by assessment on the respective counties cities ridings hundreds divisions liberties or towns corporate, for any term or terms of years not exceeding seven years, at a certain annual sum payment or allowance for the same; such contractor or contractors giving sufficient security for the due performance thereof, to the respective clerk of the peace for the time being, or the town clerk high bailiff or chief officer of any city town corporate or liberty; and that such justices at their respective general or quarter sessions shall give public notice of their intention of contracting with any person or persons for rebuilding repairing and amending the bridges ramparts banks or cops and other works aforesaid; and that such contracts shall be made at the most reasonable price or prices which shall be proposed by such contractors respectively; and that all contracts when agreed to, and all orders relating thereto shall be entered in a book, to be kept by the respective clerk of the peace for the time being, or the town clerk high bailiff or chief officer of any city town corporate or liberty for that purpose; who is and are hereby required to keep them amongst the records of such county city town corporate or liberty, to be from time to time inspected at all seasonable times by any of the said justices within the limits of their commissions, and by any person or persons employed or to be employed by any parish township or place contributing to the purposes of this Act, without fee or reward.

XV. And it is hereby further enacted, That these shall be but one rate made and assessed by the justices of the peace of the county of *Middlesex* in the said county city and liberty of *Westminster* for the several purposes aforesaid, and for the repair of the gaol commonly called *New Prison* in the said county of *Middlesex*.

XVI. Provided nevertheless, That the justices of the peace for the city and liberty of *Westminster* at their general or quarter sessions to be holden for the same city or liberty, or the greater part of them then and there assembled, shall have full power to appoint the governor or master of the house of correction within the said city or liberty; who shall have such sum of money yearly as hath been accustomed for and towards the support and maintenance of the prisoners in his custody, who shall be sick or unable to work (not exceeding the present allowance of fifty pounds by the year) and direct the repairs and management thereof as they heretofore have done; and the treasurer or treasurers of the money arising by the rates in the said county of *Middlesex* and city and liberty of *Westminster*, hereby appointed to be collected, shall and is and are hereby required to obey all orders which shall from time to time be made by the said justices of the city and liberty, or the greater part of them then and there assembled at their general or quarter sessions, for the payment of any sum or sums of money for the allowance allotted to such governor or master of the house of correction and the repairs thereof; which orders shall be good and sufficient discharges to such treasurer or treasurers; any thing herein contained to the contrary thereof in any wise notwithstanding.

XVII. And be it further enacted by the authority aforesaid, That the justices of the peace at their respective general or quarter sessions, or the greater part of them then and there assembled, shall be and are hereby empowered to oblige by their order or orders the respective high constables and petty constables, or any other person or persons who are or have been empowered to levy collect or receive any sum or sums of money by virtue of and for the purposes aforesaid, and who have any sum or sums of money in their hands, to account with them at their general or quarter sessions in such manner as high constables are directed to account by virtue of this Act; and in case such high constables or petty constables or other person or persons shall refuse to account or to pay over the money that shall remain in their or any of their hands, when the same are required by order of the said justices or the greater part of them in their respective general or quarter sessions assembled; in either of the said cases the said justices shall have the like remedy against them or any of

No. I

12 Geo. II.
c. 29.

upon public Notice.

Justices to make but one Rate for Middlesex.

Proviso as to the House of Correction at Westminster.

Justices empowered to oblige Collectors to account,

No. I.

12 Geo. II.
c. 29.

and to order the
Monies unap-
plied to be paid
to the Trea-
surer.

No Action
against Persons
collecting on
Rates dis-
charged by *Cer-
tiorari*, &c.

but the Persons
over-rated to be
relieved.

Collectors
obliged to Pay-
ment.

Certiorari on
what Terms is-
suable.

them, as they have against the high constables by virtue of this Act, for not accounting for or paying over the money remaining in their hands : And it shall and may be lawful to and for the said justices at their respective general or quarter sessions, or the greater part of them then and there assembled, and they are hereby empowered to direct and order the payment of the respective sums of money which shall appear to be remaining due and not applied or disposed of into the hands of the respective treasurer or treasurers to be appointed by this Act ; which shall be deemed to be part of the stock of the said counties cities ridings divisions liberties or places respectively ; and to inquire what sums of money are due and owing for the purposes aforesaid : and then to order the payment of such sums as shall appear to them upon such inquiry to be justly due and owing.

XVIII. And be it further enacted by the authority aforesaid, That no action or suit shall be commenced or prosecuted against any person or persons who has or have been or shall be employed in the collecting or receiving any money in pursuance of the said recited Acts or this present Act, on any rate or rates which has or have been or shall be quashed or discharged on any *certiorari* brought or to be brought in any of his Majesty's courts of record at *Westminster* or otherwise for any money collected or received or to be collected or received on any such rate or rates before such writ of *certiorari* was or shall be brought and allowed ; and that justice may be done to such persons who shall or may pay towards any rate which shall be quashed or discharged, the several sums of money which shall appear to have been paid by them on such rate either in whole or in part more than they ought to have paid shall be repaid or allowed to them in the next rate or rates which shall be made in pursuance of this Act, as if the same had been paid on such new rate or rates ; any thing in any former Act, or any law usage or custom to the contrary thereof in any wise notwithstanding.

XIX. Provided nevertheless, and it is hereby further enacted, That all and every such person and persons so employed or to be employed shall account for and pay over the money by them respectively received, in the same manner and under the like penalties for any neglect or refusal therein as are to be inflicted by virtue of this Act on any person or persons neglecting or refusing to account for or pay over any money remaining in his or their hands, which he or they have received in pursuance thereof ; any thing in any of the said recited Acts contained to the contrary thereof in any wise notwithstanding.

XX. And be it further enacted by the authority aforesaid, That the justices of the peace for the said county of *Middlesex* at their general sessions of the peace to be holden for the said county shall have the same powers and authorities to put this Act in execution as are hereby given them at their general quarter sessions ; any thing in this or any former Act, or any law usage or custom to the contrary notwithstanding.

XXI. And be it further enacted by the authority aforesaid, That no writ of *certiorari* to remove any rates made in pursuance of this Act, or to remove any orders or other proceedings taken or made by the said respective general or quarter sessions touching such rates, shall be taken out or granted but upon a motion to be made some time in the first week of the next term after the time for appealing from such rates or orders is expired, and upon making it appear to the court by affidavit or otherwise that the merits of the question upon such appeal or orders will by such removal come properly in the judgment of the said court ; and that no such writ of *certiorari* shall be allowed until sufficient security be given to the respective treasurer or treasurers appointed by virtue of this Act in the sum of one hundred pounds, to prosecute such writ of *certiorari* with effect and to pay the costs to be ascertained by the court to which such rates orders or proceedings shall be removed, in case such rates or orders shall be confirmed ; nor shall any such rates orders or proceedings be quashed or vacated for want of form only ; and all charges attending such removal shall be defrayed out of that or any subsequent rate.

XXII. And be it further enacted by the authority aforesaid, That so much of the before-recited Act passed in the fourteenth year of the reign of Queen ELIZABETH as relates to the method of taxing parishes for the relief of prisoners, and so much of the said Act of the forty-third year of the same reign as relates to the method of raising money for the King's Bench and Marshalsea prisons hospital and alms-houses, and so much of the said Act of the nineteenth year of the reign of King CHARLES the Second as relates to the method of rating parishes for providing materials for the setting poor prisoners on work, shall be repealed and be absolutely null and void.

XXIII. Provided nevertheless, That such sums as have been annually paid to the King's Bench and Marshalsea prisons shall be paid out of the monies arising by virtue of this Act, at such times and in such manner as is prescribed in and by an Act passed in the eleventh year of the reign of his present Majesty, intituled *An Act for the more effectual securing the Payments of certain Sums of Money, directed by an Act made in the forty-third Year of the Reign of Queen ELIZABETH, intituled AN ACT for the Relief of the Poor*, to be paid by the respective treasurers of every county of England and Wales for the relief of the poor, to be paid by the respective treasurers of every county of England and Wales for the relief of the poor prisoners of the King's Bench and Marshalsea prisons; and such money as shall be judged necessary by the justices of the peace in sessions to be applied in pursuance of the said recited Act of the fourteenth year of the reign of Queen ELIZABETH, for the relief of prisoners, and of the said Act of the nineteenth year of the reign of King CHARLES the Second for providing materials for the setting poor prisoners on work, shall be paid out of the monies arising by this Act.

XXIV. And be it further enacted by the authority aforesaid, That if any action or suit shall be commenced against any person or persons for any thing that shall be done in pursuance or by the authority of this present Act, in every such case the action or suit shall be commenced within three months next after the fact committed and not afterwards, and shall be laid and brought in the respective county in which the cause of action or suit shall arise and not elsewhere; and the defendant or defendants in such action or suit to be brought shall and may plead the general issue and give this Act and the special matter in evidence at any trial to be had thereupon, and that the same was done in pursuance and by the authority of this Act; and if it shall appear so to be done or that such action or actions shall be brought after the time before limited for bringing the same as aforesaid or shall be brought in any other county or place, that then the jury shall find for the defendant or defendants; and upon such verdict or if the plaintiff or plaintiffs shall be nonsuited or discontinue his her or their actions or suit after the defendant or defendants hath or have appeared, or if upon demurrer judgment shall be given against the plaintiff or plaintiffs, the defendant or defendants shall and may recover treble costs and have the like remedy for the same as any defendant or defendants hath or have in other cases by law.

* * See as to Section III. *Rex v. West Riding of York*, 12 E. 117.

[No. II.] 13 George II. c. 18.—An Act to continue several Laws therein mentioned, * * * * * and for extending the Powers and Authorities of Justices of the Peace of Counties touching County Rates, to the Justices of the Peace of such Liberties and Franchises as have Commissions of the Peace within themselves.*

VII. AND whereas by an Act passed in the twelfth year of his present Majesty's reign, intituled *An Act for the more easy assessing collecting and levying of County Rates*, several powers and authorities are given to the justices of the peace in that part of Great

No. I.
19 Geo. II.
c. 29.

Part o 14 and
43 Elis. and 19
Car. 2. repealed.

Manner of the
Payment of the
King's Bench
and Marshalsea
Money.
11 G. 2. c. 20.

Limitation of
Actions.

General Issue.

Treble Costs.

13 Geo. II. c. 18.

12 Geo. II. c. 29.

No. II.

13 Geo. II.

c. 18.

Justices of
Peace for Lib-
erties to act with
the same Power
as Justices for
the County in
collecting Coun-
ty Rates.

Britain called *England*, within the respective limits of their commis-
sions at their general or quarter sessions from time to time to make
one general rate or assessment for such sum or sums of money as they
in their discretion shall think sufficient to answer all and every the
ends and purposes of the several Acts therein recited; but there being
a proviso in the said Act that the same or any thing therein contained
should not extend or be construed to extend to make any persons lib-
erties divisions or places liable to pay to any rate to be made in pursuance
of the said Act to which such person liberty division or place did not or
was not liable to contribute before the passing thereof; some doubts
have arisen whether the said Act doth extend to liberties and franchises
which are not within the jurisdiction of the commissions of the peace
for the counties in which such liberties and franchises lie, and so never
did nor were liable to contribute to the said county rates: To the end
therefore that such liberties and franchises may not be wholly deprived of
the benefit of the said in part recited Act, it is hereby declared and
enacted by the authority aforesaid, That where any liberties or franchises
within that part of *Great Britain* called *England* have commissions of the
peace within themselves and are not subject to the jurisdiction of the
commissions of the peace for the counties in which such liberties or
franchises lie, and do not nor did before the making the said in part re-
cited Act contribute or pay to the several rates made for the said counties,
it shall and may be lawful to and for the justices of the peace of such
liberties and franchises within the respective limits of their commissions to
have use and exercise all and singular the powers authorities and methods
given or prescribed by the said in part recited Act, and all such liberties
and franchises are hereby declared to be subject thereto in the same man-
ner to all intents and purposes as counties at large are; any thing in the
said in part recited Act contained, or any law usage or custom to the
contrary thereof in any wise notwithstanding. (1.)

[No. III.] 55 George III. c. 51.—An Act to amend an
Act of his late Majesty King *George* the Second, for
the more easy assessing collecting and levying of
County Rates.—[12th May 1815.]

55 George III.
c. 51.

Justices in Gen-
eral or Quarter
Sessions to
make a fair
and equal
County Rate,
whenever Cir-
cumstances ap-
pear to require
it.

WHEREAS the laws now in force are found ineffectual for the cor-
rection of the disproportions which now exist, or which may from
time to time take place in the assessments of county rates; Be it hereby
enacted by the King's most excellent Majesty, by and with the advice
and consent of the Lords Spiritual and Temporal and Commons in this
present Parliament assembled, and by the authority of the same, That
from and after the passing of this Act it shall be lawful for the justices
of the peace of the several counties in that part of *Great Britain* called
England, assembled at their general or quarter sessions or at any ad-
journment or adjournments thereof, and they are hereby authorised and
empowered whenever circumstances shall appear to require it, to order
and direct a fair and equal county rate to be made, for all the purposes
to which the county stock or rate is now or shall hereafter be made liable
by law according to the directions hereinafter mentioned; and for that
purpose to assess and tax every parish township and other place whether
parochial or extraparochial within the respective limits of their com-
missions rateably and equally according to a certain pound rate (to be
from time to time fixed and publicly declared by such justices) of the
full and fair annual value of the messuages lands tenements and heredi-
taments rateable to the relief of the poor therein, any law or statute to
the contrary thereof notwithstanding: Provided also, that nothing in this

(1.) This Act extends to a Corporation, the
Justices of which have, by Charter, exclusive
jurisdiction: and the Session may appoint a High
Constable and Treasurer, and impose a Rate, in

the nature of a County Rate, although such Of-
ficers have never been before appointed, nor any
such Rate levied there. Ruled with respect to
Derby.—*Weatherhead v. Drury*, 11 E. 168.

Act contained shall extend or be construed to extend to give any jurisdiction to the justices of the peace of the said several counties over any places situate within the limits of any liberties or franchises having a separate jurisdiction, which before the passing of this Act were subject to rates in the nature of county rates imposed and assessed by the justices of the peace for such liberties or franchises, or which were exempt from the rates of the county in which they lie either in the whole or in part; nor to alter any proportion of county rate payable by any liberty or franchise having a separate jurisdiction as established between the county and the said liberty or franchise, provided such exemption or proportion shall have been created by or derived from grant charter or any special local Act of Parliament; nor to compel any such liberty or franchise, paying to some one or more of the rates specified in the preamble of an Act passed in the twelfth year of the reign of his late Majesty King George the Second, intituled, *An Act for the more easy assessing collecting and levying county rates*, to pay to any other rate therein mentioned to which such liberty or franchise was not liable to contribute before the passing of the said Act; nor to repeal or alter the provisions of any Acts now in force which shall have fixed the times and places of holding any general or annual general sessions or adjournment thereof, for the assessing the rates of any county, or for the raising levying or collecting the same, but that such provisions so fixing the time or place of holding such general or annual general sessions or adjournment thereof, and of then and there exclusively transacting the matters therein mentioned respecting the county rates, shall be and remain in full force; and that all the matters and things which in and by this Act are authorised to be done by the justices of the peace at their general or quarter sessions, or at any adjournment or adjournments thereof, shall be done and performed exclusively at such general or annual general sessions or at some adjournment thereof, and at no other time or place than such as shall have been fixed by any such Act.

II. And for the better enabling the said justices to make such fair and equal county rates be it hereby further enacted, That it shall be lawful for them at any general or general quarter sessions of the peace or at any adjournment or adjournments thereof (to be holden after the passing of this Act) and as often as they shall deem it expedient, and they are hereby authorised and empowered to issue precepts signed by their chairman, or by the clerk of the peace under the authority of the said court, to the high constables petty constables churchwardens overseers of the poor, assessors and collectors of public rates and taxes of or for the several and respective parishes townships and places whether parochial or otherwise within their jurisdiction, or to such and so many of them as to the said justices shall seem expedient, requiring the said constables churchwardens and overseers of the poor, assessors and collectors respectively, to make returns in writing to the justices of their respective divisions in petty sessions assembled (which returns shall be verified on oath at the time of delivery before any two or more such justices) of the total amount of the full and fair annual value of the several estates and rateable property within the parish township or place whether parochial or otherwise to which they respectively belong, charged or assessed to the poor's rate at the time of making such return or liable so to be, or charged or assessed on any other rate or assessment whether parochial or public, without regard nevertheless to the actual amounts or sums assessed on the property therein, save and except in such parishes townships or places only where such property is assessed to the full and fair estimated annual productive value.

III. And be it further enacted, That it shall be lawful for the said justices so assembled at their general or quarter sessions as aforesaid, and they are hereby authorised and empowered from time to time whenever they shall deem it expedient for the purposes of this Act, also to make an order or orders for the justices of the peace within the limits of their commissions to meet from time to time within the several divisions in and for which they respectively act, and to fix therein the time of

No. II.

55 Geo. III.

c. 51.

Justices to require Churchwardens and Overseers to make Returns of Annual Value of Rateable Property.

Justices acting for Divisions empowered to receive Returns.

No. III.
55 Geo. III.
c. 51.

such first meeting; and the said justices in their respective divisions shall have power to adjourn from time to time until the purposes of this Act shall be completed; and any two or more such justices assembled at any such meeting shall receive the returns of the said constables churchwardens overseers assessors and collectors, causing the same to be verified as before directed, and them and every or any of them to examine on oath touching any matters and things contained in such returns as in the judgment of the said justices may appear necessary for the purposes of this Act, and to report their proceedings to the said justices assembled at the next or any subsequent general or quarter sessions as they shall have ordered and directed.

Penalty on
Churchwardens
and Overseers
not making
Returns.

IV. And be it further enacted, That in case any constable churchwarden overseer assessor or collector aforesaid shall neglect or make default in making any such return in manner aforesaid to the precepts which shall be issued by or under the authority of the said justices, then and in every such case each and every such constable churchwarden overseer assessor or collector so neglecting and making default (without sufficient excuse to be allowed by the said justices in their said general or quarter sessions) shall forfeit and pay such sum and sums of money, not exceeding twenty pounds, as shall or may be ordered or adjudged by such justices so assembled as aforesaid, to be levied on the goods and chattels of each and every churchwarden and overseer of the poor so neglecting or making default.

Justices in
Petty Sessions
assembled em-
powered to issue
their Precepts
to Officers, re-
quiring them to
make Returns
in Writing.

V. And be it further enacted, That in case of default by not making due return of any matter or thing required by the precept of the justices in general or general quarter session assembled, as before directed, it shall be lawful for the justices in their respective divisions in petty sessions assembled or any two or more of them to issue their precepts to any officer or officers before described who shall have made such default, to make the returns in writing as before required to them on a day and at a place therein to be named, and so from time to time as often as shall be necessary; and in case any officer before described shall neglect or make default in making any such return to the precepts which shall be issued by any two or more justices acting for the division wherein such default shall be made, then and in every such case each and every such officer before described so neglecting and making default as aforesaid, without sufficient excuse to be allowed by the said justices acting for such division, shall forfeit and pay any sum, not exceeding twenty pounds, as shall or may be ordered and adjudged by such last-mentioned justices, to be levied on the goods and chattels of the officers so neglecting or making default.

Parishes may
be assessed, al-
though no Re-
turn made.

VI. And be it further enacted, That if any churchwarden or churchwardens overseer or overseers assessor or assessors or collector or collectors shall neglect or make default in making such return or returns as aforesaid, or if it shall happen that notwithstanding the incurring of any such penalty or penalties as aforesaid for or on account of such neglect or default, a return for any parish township or place, whether parochial or otherwise, shall not be made within the time limited for the making thereof, then and in every such case it shall be lawful for the said justices and they are hereby required either at the said general or quarter sessions or at any adjournment or adjournments thereof, or at some subsequent general or quarter sessions to be held for the same county or at some adjournment or adjournments thereof, or at some petty sessions or adjournment or adjournments thereof respectively as the case may be, to ascertain the annual value of the property chargeable to the county rate within or for each and every the parish township and place, whether parochial or otherwise, of which the constable or constables churchwarden or churchwardens overseer or overseers assessor or assessors collector or collectors shall have so neglected or made default in making such return as aforesaid, by issuing fresh precepts or by such other means as may appear to the said justices the most convenient and proper towards the obtaining a just and fair estimate of such annual value; and the said justices of the peace of the county in general or quarter



sessions or any adjournment or adjournments thereof assembled, acting on their own discretion or on the report of any two or more justices acting in and for any division of such county as the case may be, shall order such allowance or compensation to be made to the persons employed in ascertaining the said annual value and in making such returns as aforesaid, as to the said justices so assembled shall appear reasonable; and all such allowances and compensations and other expences as shall be thereby incurred shall be by the said justices so assembled charged upon the parish township or place, whether parochial or otherwise, of which the churchwarden or churchwardens overseer or overseers of the poor shall have so neglected or made default as aforesaid, in addition to the proportion of the said county rate to be paid by such parish township or place, whether parochial or otherwise; and such allowances compensations and expences shall and may be raised levied and collected by such and the like ways and means as the said county rate can or may be raised levied and collected, and shall be paid therewith, due distinction being made in the case of every such additional assessment between the sum or sums charged for and on account of any such expences and the sum or sums assessed as and for the county rate.

VII. Provided always and it is hereby further enacted, That in all cases and places as aforesaid where there are no churchwardens or overseers of the poor, or where no rate is made and collected for the relief of the poor, or where the justices of the peace of any county or of any division thereof assembled as aforesaid, for the purpose of receiving such returns as aforesaid of the annual value of the property chargeable to the county rate, shall be of opinion that the returns made to them do not afford a full fair and just account of the annual value of the property rateable, it shall and may be lawful to and for the said justices of the peace so assembled to summon before them any one or more substantial inhabitant of such places respectively, or any other person or persons whom they the said justices may think proper to give evidence as to the fair annual value of such rateable property; and then and there to examine such inhabitant or inhabitants and other person or persons respectively on oath (which oath any one or more of the said justices is and are hereby authorised to administer) as to the annual value of such property.

VIII. And be it further enacted, That in such place or places where there is no poor's rate or overseer of the poor or churchwarden or other officer necessary for the execution of the provisions of this Act, residing within the limits of the jurisdiction of the justices of the peace of the county requiring such returns, and in which there is any property liable to the poor's rate but not rated or assessed thereto, it shall and may be lawful for the said justices of the peace of the county assembled as aforesaid, or for the justices of the peace resident in and acting for any division of the county in which such place or places are situate, at any petty sessions or adjournment thereof to be holden by them within such division as aforesaid, and they are hereby authorised and required to appoint one or more proper person or persons to act as overseer or overseers or other such officer as aforesaid, who is and are hereby authorised empowered and required to act within such place or places respectively for effecting the purposes of this Act; and such person or persons respectively shall have the like powers vested in him or them, and shall be subject to the same regulations and penalties for effecting all such purposes, as fully and effectually to all intents and purposes as if he or they had been appointed overseer or overseers of the poor or churchwarden or churchwardens or other officer or officers under any law or laws now in force.

IX. And for the better enabling as well the said justices in general or quarter sessions assembled, as the justices of the several divisions acting under the order or orders of the justices assembled as aforesaid respectively, to ascertain the fair annual value of all property liable to be so rated; it is hereby further enacted, That it shall and may be lawful to and for such justices or any two or more of them from time to time, whenever the same may be in the judgment of such justices necessary

Parishes may be assessed where no Overseers or Churchwardens, or where no Poor's Rate, or where Returns insufficient.

Where no Poor's Rate or Overseer, Justices to appoint.

Justices empowered to call for all Parliamentary and Parochial Assessments, &c.

No. III.
 88 Geo. III.
 c. 51.

for the more correct execution of this Act, to cause any of the books of assessment of any rates or taxes, parliamentary or parochial, which have lately been or shall hereafter be laid on any part of the property liable to be assessed towards the purposes for which a county rate is applicable, and the valuation by which such assessments are or were made mentioned and described within any parish or place within the limits of the jurisdiction of the said justices, in the hands of any constable churchwarden overseer assessor or collector, to be brought before them or him and to take copies or extracts of and from such books or any parts thereof, or to order and direct any person to take such copies or extracts from such books in the hands of them or any of them, without having the same brought before the said justices, or to call before them any such constable churchwarden overseer assessor or collector to give evidence respecting the same, as they or he or any of them shall think fit, such compensation being made to the person or persons employed for any of the purposes aforesaid as the said justices or any two or more of them shall think reasonable; and if any person or persons in whose custody or power any of the said books may be shall neglect or refuse to attend the said justices with such book or books, or to permit any such copies or extracts to be taken as aforesaid, or to give such information or evidence on oath as may be required by such justices (which oath such justices or any one or more of them are and is hereby authorised to administer) then and in every such case every person who shall so refuse or neglect shall for every such offence forfeit and pay any sum not exceeding ten pounds; and moreover it shall be lawful for such justices in the like cases from time to time to cause copies of the total amount assessed in each parish township or place, in respect of any aids or taxes payable to his Majesty his heirs or successors, and the total amount of the valuation of the property on which such assessments were made in any year then elapsed, to be made out by the clerk to the commissioners of each district within the limits of the jurisdiction of such justices, such compensation being made to the respective clerks as the said justices or any two of them shall think reasonable, and if any such clerk shall neglect or refuse to make out such copies within a reasonable time after his receipt of the order of such justices, every such clerk shall forfeit and pay the sum of twenty pounds.

Persons author-
 ized to enter
 upon Lands, to
 ascertain Value.

X. And for the better enabling the churchwardens and overseers of the poor chief constables and other persons to make accurate returns as herein-before required in cases where doubts are entertained; be it further enacted, That it shall be lawful for them or any of them or for such other person or persons as they may select for that purpose, by warrant under the hands and seals of any two or more justices of the peace of the county in general or quarter sessions assembled, to enter upon view and examine all and any lands or other property chargeable to the county rate in order to ascertain the apnual value at which the same ought to be charged: Provided always, that no such entry shall in any case be made unless fourteen days previous notice of the intention of making such entry shall have been given under the hands and seals of the justices authorising the same to the churchwardens or overseers, or to the person or persons appointed to act in default of such churchwardens or overseers of the parish township or place, whether parochial or otherwise, and to the person or persons whose lands are to be entered upon for the purpose of making such valuation.

Justices of Di-
 vision to certi-
 fy Value ascer-
 tained to Jus-
 tices in Quarter
 Sessions.

XI. And be it further enacted, That whenever the justices in general or quarter sessions assembled shall have ordered any county rate to be made which they are hereby authorised to order from time to time whenever the same shall be necessary, and the justices in petty sessions shall by any of the aforesaid ways and means have ascertained to their own satisfaction the fair and just annual value of any or of all the rateable property within their respective divisions, and they are hereby required from time to time to certify under their hands the true amount thereof to the next general or quarter sessions of the peace for the same county, to the intent that at such general or quarter sessions or at some adjournment or adjournments thereof or at some subsequent general

or quarter sessions or adjournment or adjournments thereof the justices there assembled may from time to time and as often as they shall deem it necessary make a fair and equal rate on all such rateable property, or correct any inequalities which upon appeal shall be shown to their satisfaction to exist in any rate now existing or hereafter to be made.

No. III.

55 Geo. III.

c. 51.



Justices authorized to issue Warrants for levying new Rates according to usual Practice.

XII. And be it further enacted, That it shall be lawful to and for the justices of the peace of any county or the major part of them in general or quarter sessions or at any adjournment or adjournments thereof assembled, as often as they shall have deemed it necessary, to make a rate or rates assessment or assessments on all the rateable property within the limits of their jurisdiction according to the fair annual value of the same as derived from any or all of the several sources of information which are herein-before mentioned, and they are hereby authorised and empowered to order warrants to be from time to time issued in the same manner as now authorised and practised by law for collecting the county rates to the several high constables within their respective counties, ordering and requiring them to issue their warrants to the respective overseers of the poor within their respective divisions to levy collect and pay to the said high constables within a time to be named and limited in a warrant to be issued from the sessions as aforesaid all such rate or rates assessment or assessments, which each high constable shall and he is hereby directed and required to pay at such time as shall be specified in such warrant to the treasurer of the county for the time being, to be applied and disposed of in such manner and for such purposes as the county stock or rate is now applicable or may hereafter be made applicable by law; and in case any overseer or overseers of the poor or other person appointed to act as such under the provisions of this Act in any of the several parishes townships or places, whether parochial or otherwise, within any county liable to pay the same, shall neglect make default or refuse to pay the same within the time to be specified and limited for that purpose as aforesaid, to the high constable of the division within which such overseer or overseers or other person or persons so liable and neglecting to pay shall reside or be appointed to act, it shall and may be lawful for any justice of the peace of the said county, upon complaint thereof made by any such high constable, by warrant under the hand and seal of any such justice to levy the same by distress and sale of the offender's goods; and the overseer or overseers of the poor of any parish township or place, whether parochial or otherwise, or other person or persons appointed to act as such overseer or overseers, shall and may and is and are hereby empowered to levy and raise by an equal rate or assessment upon all and every the several estates and property rateable to the relief of the poor within their respective parishes townships or places, whether parochial or otherwise, such sum and sums of money as shall be required and necessary, in order to raise the several sums assessed upon such parishes townships or places respectively, or to reimburse such overseer or overseers or other person or persons as aforesaid such sum or sums of money as they shall respectively have paid on account of the same; such rate or assessment to be paid by the occupier or occupiers for the time being of such estates and rateable property as aforesaid.

XIII. And whereas it would be inconvenient and oppressive to many townships or places that the sum of money which may be assessed on them as or for a county rate under this Act should be paid out of any rate made for the relief of the poor where such poor rate doth not apply separately and distinctly to the parish township or place; Be it further enacted, That it shall be lawful for the justices of the peace at their general or quarter sessions or at any adjournment thereof, if they shall think convenient, to order the sum of money directed to be assessed as or for the county rate on any such parish township or place, whether parochial or otherwise, to be paid and levied on the churchwardens overseers or petty constables of or for any such parish township or place, in such manner as the same is herein directed to be paid and levied in cases where no rate is made for the relief of the poor; any thing herein contained or any law usage or custom to the contrary notwithstanding.

In Places where Poor Rate does not separately apply, Justices may order County Rate to be levied as where no Poor Rate.

No. III.
55 Geo. III.
c. 51.

Parishes ag-
grieved may ap-
peal.

XIV. Provided always and be it enacted, That if the churchwarden or churchwardens overseer or overseers of the poor or other inhabitant or inhabitants of any parish township or place, whether parochial or otherwise, where there is no churchwarden or overseer or person appointed to act as such, shall at any time have reason to think that such parish township or place is aggrieved by any rate now existing or hereafter to be made either in pursuance of this Act or of any Act or Acts now in force, whether it be on account of the proportions assessed upon the respective parishes townships or places being unequal, or on account of some one or more of them being without sufficient cause omitted altogether from the rate, or on account of such parish township or place being rated at a higher proportion of the pound sterling according to the fair annual value of the rateable property therein, or on account of some other parish or parishes township or townships place or places being rated at a lower proportion of the pound sterling according to the fair annual value of the rateable property therein than has been fixed and declared by the justices of the peace of the said county in sessions assembled as the basis of the rate of the said county, or on account of any other just cause of complaint whatsoever; it shall be lawful for such churchwarden or churchwardens overseer or overseers of the poor or other inhabitant or inhabitants, where there is no churchwarden or overseer or person appointed to act as such, to appeal to the justices of the peace for the county at any general or quarter sessions against such part of the rate only as may affect the parish or parishes township or townships place or places which are unequally rated or which shall appear to be over-rated or under-rated or omitted altogether from the rate; and the said justices are hereby empowered to hear and finally determine the same, and either to confirm such parts of the rate as have been appealed against or to correct such inequalities disproportions or omissions as shall be proved to exist therein in such manner as to them the said justices shall appear fair just and equitable; any thing in this Act or any former Act or Acts or any law usage or custom to the contrary thereof notwithstanding: Provided nevertheless, that upon such appeal no such rate shall be quashed or destroyed in regard to any other parish township or place unless in cases where the justices of the peace of any county in general or quarter sessions assembled or the major part of them shall deem it necessary to proceed to the making of an entire new rate and shall proceed therein according to the provisions of this Act.

Expence of Ap-
peals to be paid
by Parishes or
Persons appeal-
ing.

XV. And be it further enacted, That in case of any appeals actions suits or proceedings at law respecting any thing done in pursuance of this Act or any other Act or Acts relating to the county rate, the expences of all such appeals actions suits or proceedings at law shall be borne and paid by such respective parishes townships places and persons or such of them and in such proportions as the said justices shall upon any appeal in their general or quarter sessions award; or as such courts wherein such actions suits or proceedings shall be instituted shall adjudge and order; and shall not be charged to or be paid out of the county rate.

Power to Jus-
tices to com-
pensate Persons
employed out
of County Rate.

XVI. And be it further enacted, That it shall and may be lawful for the justices of the peace of any county in general or quarter sessions or any adjournment thereof from time to time assembled to order such allowances and compensations to be made to the overseers churchwardens constables assessors collectors clerks or other persons employed in the execution of this Act which have not herein-before been provided for, from by and out of the monies assessed levied and collected by any county rate made under this or any former Act or Acts, as to the said justices shall appear reasonable and proper.

Further Allow-
ance to the
Treasurer.

XVII. And whereas the allowance which the justices of the peace are authorised to make to the treasurer or treasurers for his or their care and pains in the execution of his or their office stands limited by the before-recited Act made in the twelfth year of the reign of his Majesty King George the Second to a sum not exceeding twenty pounds a year: And whereas such sum has been in some and may be found in many cases inadequate to remunerate him or them for such care and pains; Be it

hereby further enacted, That so much of the said Act as limits the said allowance to twenty pounds a year is hereby repealed; and that it shall and may be lawful for the said justices of the peace, at their respective general or quarter sessions, or the greater part of them then and there assembled, to allow to the treasurer or treasurers of their counties and to every of them insisting on the same such reasonable sum or sums of money for such purpose as aforesaid as they in their discretion shall think fit, of which they are hereby empowered to direct the payment out of the monies arising by the rates of their respective counties: Provided always, That no such augmentation of allowance shall be made at any such general or quarter sessions, unless application for such augmentation shall have been made by the said treasurer or treasurers or the justices of the peace at some general or quarter sessions assembled, and unless notice of the intention of taking the said augmentation into consideration shall have been advertised for three successive weeks in some newspaper usually circulating in such county in the month immediately preceding the time fixed for considering the same.

XVIII. And be it further enacted, That the said several treasurers of counties or of divisions of counties shall and they are hereby required once in every year to publish in some one of the newspapers usually circulating in the county or division of the county in which they respectively act a true and accurate abstract of the account of their receipts and expenditures, under their several heads, for the year immediately preceding the publication of such abstract, signed by the justices of the peace who shall have audited the same, under a penalty of fifty pounds for every omission of such publication.

XIX. And be it further enacted, That the justices of the peace of the said several counties are hereby authorised and empowered to demand and take, whenever they shall think fit, good and sufficient security, to be approved of by the said justices in general or quarter sessions assembled, from the high constables employed in the collecting and levying the rates; and that if any such high constable, upon being so called upon by the said justices, shall neglect or refuse to give such security as shall be approved by them, it shall then be lawful for the said justices of the peace in quarter sessions assembled to order and direct the churchwardens and overseers of the poor or other persons appointed to assess collect and levy the rates of any parish township or place to pay the quota which shall be assessed thereupon towards the county rate to the treasurer of the county division or place in which such parish township or place shall be situate; and the receipt of such treasurer shall be a sufficient discharge for the same.

XX. And be it further enacted and declared, That all and every the clauses powers directions provisions and authorities contained in the said Act made in the twelfth year of his late Majesty King George the Second, intituled, *An Act for the more easy assessing collecting and levying County Rates*; and also so much of another Act made in the thirteenth year of the reign of his said late Majesty King George the Second, intituled, *An Act to continue several Acts therein mentioned for punishing such Persons as shall wilfully and maliciously pull down or destroy Turnpikes; for repairing Highways or Locks or other Works erected by Authority of Parliament for making Rivers navigable; for preventing Exactions of the Occupiers of Locks and Weirs upon the River of Thames Westward, and for ascertaining the Rates of Water Carriage upon the said River; for preventing frivolous and vexatious Arrests; and for better securing the lawful Trade of his Majesty's Subjects to and from the East Indies, and for the more effectual preventing all his Majesty's Subjects trading thither under Foreign Commissions; and for limiting the Time for suing forth Writs of Certiorari upon Proceedings before Justices of the Peace and for regulating the Time and Manner of applying for the same; for the better and more speedy Execution of Process within particular Franchises and Liberties; and for extending the Powers and Authorities of Justices of the Peace of Counties touching County Rates to the Justices of the Peace of such Liberties and Franchises as have Commissions of the Peace within themselves, as relates to county rates (save and except such parts thereof re-*

No. III.

55 Geo. III.

c. 51.

Treasurers of Counties or of Divisions of Counties to publish once in every Year an Abstract Account of their Receipts and Expenditures. High Constables to give Security.

Extending former Acts to this Act.
12 Geo. 2. c. 29.

13 Geo. 2. c. 18.

No. III.
55 Geo. III.
c. 51.

Counties where Rates have been regulated by particular Acts, authorized to make use of the Provisions of this Act.

Forfeitures, &c. how to be levied and applied.

Limitation of Actions.

spectively as are hereby varied altered or repeated) shall be good valid and effectual, for the purposes of assessing levying collecting and enforcing the payment of the rate or rates hereafter to be made in pursuance of this Act and for carrying this Act into execution.

XXI. And whereas several Acts have passed in the reign of his present Majesty and are now in force, empowering the justices of the peace of certain counties to make fair and equal county rates within their respective counties; Be it hereby enacted, That it shall and may be lawful to and for the said justices respectively, and they are hereby empowered at any time and at all times after the passing of this Act, to proceed in the assessing levying and collecting and enforcing the payment of the county rate, and in all matters relating to the equalizing the same, either under the authority and according to the provisions and enactments of this Act, or under the authority and according to the provisions and enactments of the particular Acts affecting their respective counties as to them shall seem fit and proper in all cases in which the provisions and enactments of this Act are not inconsistent with the provisions and enactments of such particular Acts.

XXII. And be it further enacted, That the several forfeitures and penalties inflicted by this Act shall if not immediately paid be levied by distress and sale of the offender's goods and chattels by virtue of any warrant under the hand and seal of any one justice of the peace for the county, not only in the county in which the offence shall have been committed but in any other county city town borough franchise or place (the warrant or warrants for levying the same being in such last-mentioned case first indorsed by some justice of the peace for the county or mayor or other head officer of the city town borough or franchise where any goods of the respective defaulters shall be found) returning the overplus (if any) after the charges of such distress and sale shall be deducted; and in case sufficient distress shall not be found, then it shall be lawful for such justices to commit the offender to the common gaol of the said county, there to remain without bail or mainprize for any time not exceeding three calendar months, unless the forfeitures and charges be sooner paid; and the said forfeitures when recovered shall be paid to the treasurer of the county or of any division thereof in which they shall have been incurred, to be applied in aid of the rates of the said county or division thereof; and no person shall be deemed incompetent to be a witness for the execution of the purposes of this Act, or in any appeal or other proceeding instituted by virtue thereof, by reason of his paying or being liable to pay towards the poor rates or county rates within the said county.

XXIII. Provided also and be it further enacted, That no action or suit shall be brought commenced or prosecuted against any person or persons for any thing done or to be done by virtue of or in pursuance of this Act after three calendar months next after the fact committed; and every such action shall be brought and laid in the county where the cause of action shall have arisen and not elsewhere; and the defendant or defendants in every such action or suit shall and may plead at his her or their election this Act specially or the general issue, and give this Act and the special matter in evidence at any trial to be had thereupon, and that the same was done in pursuance or by the authority of this Act; and if upon trial of such action or suit it shall appear to have been so done, or that such action or suit shall have been brought after the time limited for bringing the same as aforesaid, or be brought or laid in any other county than as aforesaid, then and in every the said cases the jury shall find a verdict for the defendant or defendants; and in all cases where a verdict shall be found for any defendant or defendants in such action or suit, or the plaintiff or plaintiffs therein shall discontinue the same after the defendant or defendants shall have appeared thereto or shall be nonsuited, or if upon demurrer judgment shall be given against such plaintiff or plaintiffs, then and in every such case the defendant or defendants shall recover treble costs, and have the like remedy for recovering the same as any defendant or defendants hath or have for recovering costs of suit in any other cases by law.

XXIV. And be it further enacted, That where any ridings or divisions have separate commissions of the peace, or where any cities towns or other places within that part of Great Britain called England have commissions of the peace within themselves, and are not subject to the jurisdiction of the commissions of the peace for the counties at large in which such liberties or franchises lie, and do not nor did not before the passing of this Act contribute or pay to the several rates made for the said counties at large, it shall and may be lawful to and for the justices of the peace of such separate jurisdictions within the respective limits of their commissions, to have use and exercise all and singular the powers authorities and methods given or prescribed by this Act; and all such separate jurisdictions are hereby declared to be subject thereto, in the same manner to all intents and purposes as counties at large; any law usage or custom to the contrary notwithstanding.

No. III.
55 Geo. III.
c. 51.

Extending the Provisions of this Act to Places that have Commissions of the Peace within themselves.

[No. IV.] 56 Geo. III. c. 49.—An Act to explain and amend an Act, passed in the last Session of Parliament, for the more easy assessing collecting and levying of County Rates.—[20th June 1816.]

WHEREAS an Act was passed in the fifty-fifth year of the reign of his present Majesty, intituled *An Act to amend an Act of his late Majesty King George the Second, for the more easy assessing collecting and levying of County Rates*: And whereas by the said recited Act the justices of the peace of the several counties ridings or divisions of counties cities towns or other places having commissions of the peace within themselves, in that part of Great Britain called England, are authorised and empowered to assess and tax for the purposes of the said Act every parish township and other place, whether parochial or extraparochial, within the respective limits of their commissions, according to a certain pound rate of the full and fair annual value of the messuages lands tenements and hereditaments rateable to the relief of the poor therein; and doubts having arisen under the said Act whether any messuages lands tenements or hereditaments situate within any extraparochial or other place where no rate for relief of the poor is made and collected could be made subject to the county rate to be raised under the said Act, and it is expedient that such doubts should be removed; be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That all messuages lands tenements and hereditaments situate lying or being in any extraparochial place or other places, whether rated to the relief of the poor or not so rated, although the same may not be deemed rateable to the relief of the poor within such extraparochial places or other places where no rate is made for the relief of the poor, shall be and the same are hereby declared to be subject to be assessed taxed and rated by and under the order direction and authority of justices of the peace, in such and the same manner as the messuages lands tenements and hereditaments within any parishes or places where a rate is made for the relief of the poor; and the justices of the peace shall in all cases where the same may be necessary, appoint proper persons within such extraparochial or other places as directed in and by the said recited Act, for the assessing taxing and rating such extraparochial messuages lands tenements and hereditaments, and levying collecting and paying over such assessments taxes or rates under the provisions of the said recited Act.

56 Geo. 3. c. 49.
55 Geo. 3. c. 51.

Extraparochial and other Places, though not deemed rateable to the Relief of the Poor, subject to be rated to the County Rate.

II. And whereas doubts have arisen and may arise touching the boundaries of counties ridings and divisions and parts of counties and other places of distinct and separate jurisdiction, and touching the jurisdictions of justices of the peace in relation thereto under the provisions of the said

Justices in General or Quarter Sessions to appoint Justices to fix and deter-

mine Boundaries between Counties, Ridings, Divisions, or Parts of Counties, and other Places of distinct and separate Jurisdiction.

No. IV.
56 Geo. III.
c. 49.

recited Act; and it is expedient that such doubts should be removed, and that boundaries should be ascertained in all such cases for the purposes of carrying the said recited Act into execution; Be it therefore enacted, That the justices of the peace of counties and ridings and divisions and parts of counties and other places of distinct and separate jurisdiction in that part of *Great Britain* called *England*, assembled at their several and respective general or quarter sessions of the peace or at any adjournment thereof, shall be and they are hereby authorised and required in any case in which any question or doubt does or shall exist or shall have arisen or may in the judgment of the said justices be likely to arise, as concerning any boundary between any counties ridings divisions or parts of any county or other places of distinct and separate jurisdiction, for which they respectively act as such justices, to nominate and appoint two justices of the peace of each such county riding division or parts of any county or other places of distinct and separate jurisdiction between which the boundary is required to be ascertained for the purpose of fixing and determining such boundary, and the clerks of the peace town clerks and other proper officer of the several and respective general or quarter sessions of the peace at which such justices shall be appointed shall forthwith give notice to each other and to such justices of such appointment; and the justices so appointed shall in every such case, as soon as may be after their appointment, meet and proceed to ascertain the boundary upon such evidence as can be obtained by them or as they shall deem necessary for that purpose, either by examination of witnesses upon oath (which oath any one of the said justices is hereby empowered to administer) or of any maps plans surveys or any other records or documents or in such other manner as they the said justices so appointed shall think requisite; and it shall be lawful for such justices, or for any persons authorised under the hand of any three or more of such justices, to enter upon any lands grounds or premises for the purpose of examining the same, or making any measurement maps or plans thereof for the purposes aforesaid; and it shall be lawful for the said justices to summon any witnesses to be examined in that behalf, and to impose any penalty or forfeiture not exceeding ten pounds upon any witness who shall without reasonable excuse refuse or neglect to attend to be examined upon any such summons, which penalty or forfeiture may be recovered as any penalty or forfeiture may be recovered under any of the provisions of the said recited Act; and such justices shall thereupon fix ascertain and determine the boundary so referred to them to be ascertained, and shall cause the boundary so fixed and determined to be laid down on two maps or plans to be signed by the said justices so appointed as aforesaid, which shall be deposited with the clerks of the peace town clerks or other proper officer for the counties ridings divisions or parts of counties or other places of distinct and separate jurisdiction between which such boundary shall be so fixed and determined, and which maps and plans shall be kept amongst the records of their respective sessions and shall be received as evidence of such boundaries; and such boundaries so fixed and determined shall be and be deemed the boundaries between the respective counties ridings divisions or parts of counties or other places of distinct and separate jurisdiction for which the same shall have been so ascertained for all the purposes of this and of the said recited Act and the carrying the provisions thereof respectively into execution; any thing contained in any other Act or Acts of Parliament relating to such counties ridings divisions or parts of such counties or other places of distinct and separate jurisdiction, or any law usage or custom to the contrary notwithstanding.

Appointment of
new Justices.

III. And be it further enacted, That if any of the four justices so appointed as aforesaid or who shall be appointed in manner herein-after mentioned shall, before the execution of all the powers and authorities hereby in them respectively vested, die decline or refuse to act or become incapable of acting, the justices of the peace of counties ridings divisions and parts of counties and other places of distinct and separate jurisdiction assembled at their several and respective general or quarter sessions of the peace or at any adjournment thereof, from which such justice so ap-

pointed or to be appointed shall die decline refuse to act or become incapable of acting, shall and they are hereby authorised and required to appoint another justice in the room of him so dying declining refusing to act or becoming incapable of acting as aforesaid, and so from time to time as often as any justice so to be appointed as last aforesaid shall die decline or refuse to act or become incapable of acting; and every justice to be appointed as aforesaid shall have the like power and authority as the justice in whose place he shall be appointed was invested with by virtue of this Act; and that notice shall be given by the clerks of the peace town clerks or other proper officer to such justice of his appointment in manner herein-before directed.

IV. Provided always and be it further enacted, That if it shall happen that the justices so appointed to fix ascertain and determine the boundaries as aforesaid shall disagree in opinion touching the boundary between any county riding division or parts of any county or other place of distinct and separate jurisdiction so referred to them under and by virtue of this or the said recited Act, and there shall be an equality of votes so that the said justices cannot make any determination thereon, then and in such case the said justices or the major part of them shall forthwith appoint under their hands such persons as they may think proper to act as referee, which person so appointed as referee shall within twenty-one days from the receipt of such appointment fix a time and place to meet such justices; and at such meeting the said person so to be appointed as referee as aforesaid shall, together with the said justices to whom any boundary shall be referred to be ascertained as aforesaid, proceed to fix ascertain and determine the boundary about which such disagreement shall take place amongst them the said justices in such and the same manner and with such and the like powers in all respects as herein-before expressed, and that the determination and decision of the said justices and of the person whom they shall appoint as referee as aforesaid or of the major part of them shall be for ever binding and conclusive; and that the said justices and the person whom they shall appoint as referee as aforesaid or the major part of them shall cause the boundary so fixed and determined to be laid down on two maps or plans to be signed by the said justices and the person so appointed as referee as aforesaid or by the major part of them, which shall be deposited with the clerks of the peace town clerks or other proper officer as herein-before directed, and kept amongst the records of their respective sessions and shall be received as evidence of such boundaries; and such boundaries so fixed and determined shall be and be deemed the boundaries between the respective counties ridings divisions or parts of counties or other places of distinct and separate jurisdiction, for which the same shall have been so ascertained for all the purposes of this and of the said recited Act, and the carrying the provisions thereof respectively into execution, any thing contained in any other Act or Acts of Parliament relating to such counties ridings divisions or parts of such counties or other places of distinct and separate jurisdiction, or any law usage or custom to the contrary notwithstanding.

V. Provided always and be it further enacted, That in all cases in which any appeal or appeals shall be made under the said recited Act to any rate or assessment made in pursuance thereof or of this Act, the same shall be made to the next general or quarter sessions of the peace after the cause of appeal shall have arisen, and that fourteen clear days notice in writing shall be given of the intention to try such appeal previous to such general or quarter sessions, and that notwithstanding such appeal or notice thereof the rate or rates made upon any parish township or place (whether extraparochial or otherwise) under the said recited Act and this Act shall be paid and shall and may be levied recovered and received in the same manner as if no appeal had been made or notice given thereof; and that if upon the hearing of any such appeal or appeals the court of general or quarter sessions of the peace shall order any rate or assessment to be decreased or lowered, and it shall appear to the said court that any parish township or place have or hath previously to the

No. IV.

56 Geo. III.

c. 49.

In case of Dis-
forence be-
tween Justices,
a Referee to
be appointed to
meet them
and determine
Boundary.

Appeals how to
be proceeded in.

No. IV.
56 Geo. III.
c. 49.

Act not to de-
termine any
Question of
Boundary.

Extending
former Act to
this Act.

hearing such appeal or appeals paid any sum or sums of money in consequence of such rates or assessments which ought not to have been paid or charged therein, then and in every such case the said court shall order all and every such sum and sums of money to be repaid and returned to the person or persons parish township or place having paid the same respectively.

VI. Provided always, That nothing in this Act contained nor any proceedings under the same shall extend or be construed to extend to determine any question of boundary for any purpose except for the purpose of assessing collecting and levying rates according to the provisions of this Act and of the said recited Act.

VII. And be it further enacted, That all the powers authorities provisions clauses and regulations contained in the said recited Act shall be deemed and taken to apply to this Act as if the same were severally and respectively repeated and re-enacted in this Act; and this Act and the said recited Act shall be construed as one Act.

[No. V.] 57 Geo. III. c. 94.—An Act to amend an Act of the last Session of Parliament, for the more easy assessing of County Rates.—[10th July 1817.]

57 Geo. III.
c. 94.
56 Geo. 3. c. 49.

WHEREAS an Act was passed in the last session of Parliament to explain and amend an Act passed in the last session of Parliament for the more easy assessing collecting and levying of county rates: And whereas it is expedient to repeal so much of the said Act as directs that in all cases in which any appeal or appeals shall be made under the said recited Act to any rate or assessment made in pursuance thereof or of this Act the same should be made to the next general or quarter sessions of the peace after the cause of appeal shall have arisen, and that fourteen clear days notice in writing should be given of the intention to try such appeal previous to such general or quarter sessions; and that notwithstanding such appeal or notice thereof, the rate or rates made upon any parish township or place (whether parochial or otherwise) under the said recited Act and this Act should be paid, and should and might be levied recovered and received in the same manner as if no appeal had been made or notice given thereof; and that if upon the hearing of any such appeal or appeals the court of general or quarter sessions of the peace should order any rate or assessment to be decreased or lowered, and it should appear to the said court that any parish township or place have or hath previously to the hearing such appeal or appeals paid any sum or sums of money in consequence of such rates or assessments which ought not to have been paid or charged therein, then and in every such case the said court should order all and every such sum and sums of money to be repaid and returned to the person or persons parish township or place having paid the same respectively; Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That the herein-before recited provision shall be and the same is hereby repealed.

So much of re-
cited Act as re-
spects Appeals,
&c. repealed.

Rate to be
raised notwith-
standing Ap-
peals, until De-
termination of
Justices.

II. And be it further enacted, That from and after the passing of this Act the rate or rates made upon any parish township or place (whether extraparochial or otherwise) under any Act or Acts passed for the assessing collecting and levying of county rates shall be paid and shall and may be levied recovered and received, notwithstanding any appeal or appeals may have been made to the general or quarter sessions of the peace against any such rate or rates; and such rate or rates shall continue to be raised levied and received until the decision of the justices shall be made upon such appeal or appeals: Provided always, that if upon the hearing of any such appeal or appeals the court of general or quarter sessions of the peace shall order any rate or assessment to be set aside decreased or lowered, and it shall appear to the said court that any parish township or place have or hath previously to the determination of such

In case Justices
order Rate to
be set aside, de-
creased, or
lowered;

appeal or appeals paid any sum or sums of money in consequence of such rates or assessments which ought not to have been paid or charged therein, then and in every such case the said court shall order such proportion of such sum or sums of money as shall have been so paid by any person or persons parish township or place, subsequently to the notice which shall have been given of such appeal or appeals, to be repaid and returned to the person or persons parish township or place which have or hath paid the same respectively out of the general rate of the county in which the cause of appeal shall have arisen: Provided always, that fourteen clear days notice in writing shall be given by the parties intending to appeal against any rate or assessment to the parties against whose rate the appeal is to be made, the clerk of the peace of the county and the hundred constable, of the intention to try such appeal at the next general quarter sessions of the peace; any thing in any Act or Acts to the contrary notwithstanding.

III. And be it further enacted, That so much of the said recited Act as directs that the expences of all appeals actions suits or proceedings at law in respect of any thing done in pursuance of the said recited Act shall be paid by such respective parishes townships places and persons as the said justices in general or quarter sessions shall direct, or such court wherein such proceeding shall be instituted shall order, and shall not be charged to or be paid out of the county rate, shall be and the same is hereby repealed.

IV. And be it further enacted, That in case of any appeals actions suits or proceedings at law respecting any thing done in pursuance of this Act or any other Act or Acts relating to the county rate, the expences of all such appeals actions suits or proceedings at law shall be borne and paid by such respective parishes townships places and persons or such of them and in such proportions as the said justices shall upon any appeal in their general or quarter sessions award and order, or as such courts wherein such actions suits or proceedings shall be instituted shall adjudge and order.

V. And whereas there are several parishes townships and places in and over which the high constables have no jurisdiction; Be it therefore further enacted, That in all such cases it shall be lawful for the justices of the peace of any county in which such parishes townships or places shall be situate to issue their warrants for collecting the county rate to one or more of the constables of such parishes townships or places, and such constable or constables shall collect levy and pay such county rate in such and the like manner as the high constables are by the said Act empowered and required to do, and shall be subject to the like penalties in case he or they shall neglect to demand levy or account for such county rates as the said high constables are subject or liable to by any law or statute now in force.

No. V.

57 Geo. III.
c. 94.

Money paid subsequent to the Time of Appeal to be returned out of the General County Rate.
Notice of Appeal.

So much of recited Act, as directs that the Expences of Appeal shall be paid by such Parishes as the Justices shall appoint, repealed.

Expences of Appeals shall be paid in such Proportions as the Justices shall award.

Where there are no High Constables, other Constables may levy the Rates.

[No. VI.] 1 & 2 Geo. IV. c. 85.—An Act to explain and amend several Acts relating to the assessing, levying and collecting the County Rates.—[2d July 1821.]

WHEREAS an Act was passed in the twelfth year of the reign of his Majesty King George the Second for the more easy assessing levying and collecting of county rates: And whereas an Act was passed in the thirteenth year of the reign of his said Majesty King George the Second (amongst other purposes) for extending the powers and authorities of justices of the peace of counties, touching county rates, to the justices of the peace of such liberties and franchises as have commissions of the peace within themselves: And whereas an Act was passed in the fifty-fifth year of the reign of his late Majesty King George the Third, intituled *An Act to amend an Act of his late Majesty King George the Second, for the more easy assessing collecting and levying of County Rates*: And whereas an Act was passed in the fifty-sixth year of the reign of his said late Majesty, to explain and amend the said last-mentioned Act:

1 & 2 Geo. IV.
c. 85.

12 Geo. 2. c. 29.
13 Geo. 2. c. 18.

55 Geo. 3. c. 51.

56 Geo. 3. c. 49.

No. VI.

1 & 2

Geo. IV.

c. 85.

57 Geo. 3. c. 94.

Powers of recited Acts to extend to Places where there are no separate Churchwardens, &c. or where no separate or distinct Poor Rate is made for any Place extending into Two or more Counties, &c.

Justices not to act beyond their Jurisdiction.

And whereas an Act was passed in the fifty-seventh year of the reign of his said late Majesty to amend the said last-mentioned Act: And whereas there are several parishes townships hamlets and places situated in and extending into two or more counties ridings or divisions having separate and distinct commissions of the peace, part of such parishes townships hamlets and other places being situated in one county riding or division and other part or parts thereof in another county or other counties riding or ridings division or divisions, and the messuages lands tenements and hereditaments situated in such parishes townships hamlets or other places are rateable to the relief of the poor therein and to the county rates of the respective counties ridings or divisions in which such messuages lands tenements and hereditaments are respectively situated; but the constables churchwardens and overseers are appointed for the whole of such parishes townships hamlets or places, and it frequently happens that such constables churchwardens and overseers are resident in one division of such parishes townships hamlets or other places, and that there are no constables churchwardens or overseers residing in the other division thereof or within the limits of the jurisdiction of the justices making such county rate or rates, whereby considerable difficulties have in such cases arisen in raising the county rates in such divisions: For remedy whereof, be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That from and after the passing of this Act all and every the powers and provisions clauses pains penalties and forfeitures given granted provided made or imposed by the said recited Acts or any of them shall extend and be deemed construed and taken to extend to all cases and places as aforesaid where there are no separate churchwardens or overseers of the poor, or where no separate or distinct rate is made and collected for the relief of the poor of any such division or part of any parish township or place situated in and extending into two or more counties ridings or divisions as aforesaid, as fully and effectually to all intents and purposes as if the said several powers provisions clauses pains penalties and forfeitures were herein and hereby repeated and re-enacted as to all such cases and places as aforesaid; and that from and after the passing of this Act all and every the constables churchwardens and overseers of any such parishes townships hamlets or other places as are situated in and extend into two or more counties ridings or divisions having separate and distinct commissions of the peace as aforesaid, shall be subject to the precepts warrants orders and directions of the several justices of the peace for the respective divisions or parts of such parishes townships hamlets or other places, so far as the same may relate to the making of the returns required by the said recited Acts or any of them, and the assessing levying and collecting of the proportion of the county rate for such respective divisions or parts of such parishes townships hamlets or other places or otherwise to the execution of the said recited Acts and of any other Acts relating thereto, within the parts of such parishes townships hamlets or other places as shall be situated within the limits of the jurisdiction of the justices making and issuing such precepts orders warrants and directions, and shall be subject to the same fines penalties and forfeitures for neglect and disobedience of the precepts warrants orders and directions of such justices so far as the same shall relate to the matters aforesaid or any of them, or otherwise to the execution of the said recited Acts or any other Acts relating to the assessing levying and collecting of the county rate within the limits of the jurisdiction of the justices making and issuing such precepts warrants orders and directions as such constables churchwardens and overseers or other officers would by the laws now in force be subject and liable to, if such constables churchwardens overseers or other officers had resided within the limits of the jurisdiction of the justices making and issuing such precepts warrants orders and directions: Provided always, that nothing herein contained shall extend or be construed deemed or taken to extend to authorise any justice or justices of the peace to act in the cases aforesaid, or any of them beyond

the limits of the jurisdiction within which he or they shall be generally appointed and authorized to act as such justices.

II. And whereas by the said recited Act of the fifty-sixth year of the reign of his late Majesty it was enacted, that all messuages, lands, tenements, and hereditaments, situate lying or being in any extraparochial place or other places, whether rated to the relief of the poor or not so rated, although the same might not be deemed rateable to the relief of the poor within such extraparochial places, or other places where no rate is made for the relief of the poor, should be and the same were thereby declared to be subject to be assessed taxed and rated by and under the order direction and authority of justices of the peace in such and the same manner as the messuages, lands, tenements, and hereditaments within any parishes or places where a rate is made for the relief of the poor; and that the justices of the peace should in all cases where the same might be necessary, appoint proper persons within such extraparochial or other places as directed in and by the said therein recited Act of the fifty-fifth year of the reign of his late Majesty for the assessing taxing and rating such extraparochial messuages, lands, tenements, and hereditaments, and levying collecting and paying over such assessments taxes or rates under the provisions of the said recited Act: And whereas there are extraparochial and other places where no rate is made for the relief of the poor in which there are no messuages or no person or persons resident proper to be appointed for the assessing taxing and rating such extraparochial or other places, and levying collecting and paying over such assessments taxes or rates under the provisions of the said last-recited Act; and it is expedient that in those cases the justices of the peace should be authorized and empowered in their discretion to appoint proper persons, who do not reside within such extraparochial or other places, to assess tax and rate all messuages, lands, tenements, and hereditaments situated in such extraparochial or other places: Be it therefore further enacted, That the justices of the peace in and for any county riding or division shall in all such cases where they shall deem it necessary appoint proper persons within such county riding or division as directed in and by the said recited Act of the fifty-fifth year aforesaid, whether such persons do or do not reside within such extraparochial or other place as aforesaid, to assess tax and rate all such messuages, lands, tenements, and hereditaments as are situated in such extraparochial or other places as aforesaid; any thing in the said last-recited Act to the contrary in anywise notwithstanding.

III. And for the more effectually levying money assessed for the purposes aforesaid, be it enacted, That the goods of any person assessed, or by the said recited Acts or this or any of them made liable to pay the rates thereby authorized to be raised and levied or any proportion thereof for any county, riding, division, city, borough, town corporate, or place, and refusing to pay may be levied by warrant of distress, not only in the place for which such assessment was made but in any other place within the same county or precinct; and if sufficient distress cannot be found within the said county, riding, division, city, borough, town corporate, or place, on oath made thereof before some justice of any other county or precinct (which oath shall be certified under the hand of such justice on the said warrant) such goods may be levied in such other county riding division city borough town corporate or place by virtue of such warrant and certificate; and if any person shall find him or herself aggrieved by such distress as aforesaid, it shall and may be lawful for such person to appeal to the next general or quarter sessions of the peace for the county or precinct where such assessment was made, and the justices there are hereby required to hear and finally determine the same.

IV. And be it further enacted, That in all cases where any penalty, forfeiture, fine, or other money, may under or by virtue of the said recited Acts or this Act or any of them, by the warrant of any justice or justices of the peace be directed to be levied by distress and sale of the goods and chattels of any person or persons, if sufficient distress cannot be found

Justices of other Counties may indorse the Warrant, and direct Distress to be levied.

No. VI.

1 & 2

Geo. IV.

c. 85.

In extraparochial Places, where no Poor Rate is made, Justices may appoint Persons to tax and assess County Rate.

The Goods of Persons liable to pay Rates may be seized by Warrant of Distress in any other Place than the Place of Assessment, &c.

Appeal to Quarter Sessions.

Where sufficient Distress cannot be found in one County, &c.,

No. VII.
9 Geo. IV.
c. 43.

within the limits of the jurisdiction of the justice granting such warrant of distress on oath thereof made by one witness before any justice of the peace of any other county, riding, division, city, borough, town corporate, or place (which oath shall be by him certified by indorsement on such warrant), such penalty, forfeiture, fine, or other money, or so much thereof as may not have been before levied or paid, shall and may by virtue of such warrant and indorsement be raised and levied by the person or persons to whom such warrant of distress shall have been originally directed, by distress and sale of the goods and chattels of such person or persons in such other county, riding, division, city, borough, town corporate, or place; and the money arising by such distress and sale shall be applied and disposed of for such purpose and in like manner as if sufficient goods and chattels of such person or persons had been found within the jurisdiction of the justice originally granting such warrant; and if no such distress can be found such offender or offenders shall and may be forthwith proceeded against according to law.

Justices not ac-
countable for
Irregularities.

V. Provided always and be it further enacted, That no justice who shall indorse any certificate upon or authorize the execution of any such warrant of distress which may not have been granted within his jurisdiction, shall be answerable or accountable for any irregularity which may have been committed or done in or about the obtaining or granting of such warrant of distress.

[No. VII.] 9 Geo. IV. c. 43.—An Act for the better Regulation of Divisions in the several Counties of *England* and *Wales*.—[15th July 1828.]

WHEREAS by divers Acts now in force it is enacted, that certain matters and things, in the same respectively mentioned, shall be transacted and determined within the divisions or limits within which the same shall arise, or the parties therein concerned inhabit or exercise their trade or calling, and by or before one two or more justices of the peace dwelling within or near to, or usually acting within, such divisions or limits respectively: And whereas the boundaries of such divisions or limits are in some instances uncertain, and in many have become inconvenient to the inhabitants within the same, from the change or increase of trade or population, or from other causes: And whereas doubts have arisen as to the authority by which such divisions or limits may from time to time be constituted defined or altered; and it is expedient that such doubts should be removed, and due provision made for the constituting defining and regulating from time to time such divisions or limits, as the convenience of the inhabitants within the same may require; be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That at any time or times after the *Michaelmas* quarter sessions next following the passing of this Act, it shall be lawful for any two or more justices of the peace for any county riding or division in *England* or *Wales*, having a separate commission of the peace, to transmit to the clerk of the peace a statement in writing, signed by such justices of the parishes, tithings, townships, and places within the same, which in the opinion of such justices, would form together a convenient and a proper division within and for which special sessions should thenceforward be held; or of any parishes, tithings, townships, or places which, in the opinion of such justices, ought to be annexed, for the same purposes, to any other division in the said county than those or that of which at the time of making such statement they form part; and that every such statement shall, among other things, set forth within what existing divisions or division, limits or limit, the several parishes, tithings, townships, and places enumerated in the same, are situated or deemed to be; and also whether one or more and what existing divisions or limits will be altered by such proposed new divisions, or by the change of any place or places from one division to another; and also the names

Justices to forward to the Clerk of the Peace a Statement of the Townships, Places, &c., that would form a proper Division for which Special Sessions should be held.

of such justices of the peace as at the date of such statement are usually resident or acting as such within the boundaries of such proposed new division.

No. VII.
9 Geo. IV.
c. 43.

Statement to be laid before the Justices at the next Quarter Sessions, who are to adopt or reject the same.

II. And be it further enacted, That at the quarter sessions next following the receipt of every such statement, setting forth such particulars as are above enumerated, and not otherwise, the clerk of the peace shall and he is hereby required to lay the same before such justices of the peace in such sessions assembled; and the justices of the peace for such county riding or division, having such separate commission of the peace, shall and they are hereby required (except in the cases herein-after provided for) to proceed, at the quarter sessions next following the laying of such statement before them as aforesaid, to the consideration thereof, and at their discretion to adopt the same wholly or in part, or to reject the same altogether, or to adjourn their determination thereupon to the next or any succeeding quarter sessions.

Clerk of the Peace to advertise Statements and other Particulars in the Newspapers.

III. And be it further enacted, That immediately after the quarter sessions at which such statement shall have been first laid before the justices of the peace, the clerk of the peace shall cause to be published a copy of such statement in three successive numbers of one or more weekly newspapers usually published or circulated within the same county riding or division, and in which the advertisements of county business are usually inserted; and at the foot of such copy shall also cause notice to be given that such statement has been laid before such justices in pursuance of the directions of this Act, and that the same will be taken into consideration by the court at the then next ensuing quarter sessions.

If Justices approve, an Order to be made for constituting a new Division, and the Clerk of the Peace to publish the same.

IV. And be it further enacted, That when and so often as the justices of the peace of any such county riding or division, having a separate commission of the peace, shall adopt wholly or in part any such statement so laid before them, and shall determine to change any parish, tithing, township, or place, from one division to another, or to constitute any new division, within which special sessions shall thenceforward be holden, the said justices of the peace shall thereupon make or order for such alteration, or for the constituting and defining such new division, and in such last-mentioned order shall particularly enumerate the several parishes, tithings, townships, and places to be comprised within such new division, and shall also specify the division or divisions within which respectively any parishes, tithings, townships, and places, disannexed by such order from any former division, and not forming part of such new division, shall thenceforward be taken to be, and also shall affix to such new division the name of some principal and convenient parish township or place within the same, and also shall, in either of such orders, as the case may be, particularly set down the day from which such order shall take effect; and the clerk of the peace for such county riding or division, shall forthwith publish a copy of such order in three successive numbers of one or more such weekly newspapers as aforesaid, and shall transmit a copy of such order to every high constable within the limits of such new or altered division or divisions.

No new Division to be constituted unless Five Justices at least shall be present to be resident therein.

V. Provided always, and be it further enacted, That nothing in this Act shall be taken to authorize, and that it shall not be lawful for any justices in any court of quarter sessions to make any order constituting such new division, unless upon due proof before them made in open court upon oath, that for two years next before the making of such proof there have been, and at the time of making the same there are, at the least, five justices of the peace residing in or usually acting within the boundary line proposed to be the limits of any such new division.

New Divisions to be deemed lawful Divisions for holding Special or Petty Sessions, or other Meetings of Justices.

VI. And be it further enacted, That from and after the day so specified in such order, for the term of twenty-one years, and until further order of sessions after the expiration of that time, and subject to no alteration or revision during such term, except as herein-after provided, all matters and things which by law are now or hereafter may be required to be, or which now are, usually transacted or determined within the division within which the same shall have arisen, or the parties therein concerned inhabit or exercise their trade or calling, and by or before one two

No. VII.
9 Geo. IV.
c. 43.

Justices at Sessions to cause Inquiry into the Extent of Divisions, and alter the same, and affix Names thereto.

Clerk of the Peace to publish a Copy of such Order.

Order to specify a Time when it shall be inrolled.

Parties allowed to petition against such Order.

or more justices of the peace dwelling or usually acting within the same, shall be transacted and determined, so far as the same matters and things arise within or concern the inhabitants of such new or altered division, or any of them, or the persons exercising their trade or calling therein, within the boundaries of such new or altered division; and such new or altered division shall thenceforward be, and be reputed and taken to be, for all purposes, and in the construction of all statutes now in force or hereafter to be made, and containing no special provision to the contrary, a lawful division for the holding of special sessions; and all bailiffs, constables, tithingmen, surveyors, overseers of the poor, and other officers, publicans, keepers of taverns coffee-houses and victualling-houses, and other persons, shall and they are hereby thenceforward required to give their attendance to and upon such justices of the peace at any time assembled in such special sessions, within the same division, as fully and effectually as by law they had been bound to do within any division reputed or taken before the passing of this Act to be a lawful and accustomed division of justices for the purposes aforesaid.

VII. Provided always, and be it further enacted, That at the quarter sessions next after the laying of any such statement before the justices in such sessions assembled, it shall and may be lawful for such justices, if they shall deem it expedient and proper, not to proceed to the single consideration of such statement, but instead thereof to cause to be made an inquiry and examination into the boundary lines extent and other local circumstances of all the existing and accustomed divisions for the holding of special sessions within the commission of such justices; and at such or any succeeding quarter sessions, to which the conclusion of such inquiry and examination may from time to time be adjourned, by order of sessions, to regulate, alter, new model, and subdivide all or any of such divisions, in such manner as shall appear to them proper and convenient, particularly specifying in such order the names of all such divisions, whether newly constituted altered or unaltered, the several parishes, tithings, townships, and places to be comprised in each, and affixing or continuing to each the name of some principal and convenient parish township or place within the same.

VIII. And be it further enacted, That the clerk of the peace for any county riding or division in which such order shall have been made as last aforesaid, shall forthwith publish a copy of the same in three successive numbers of one or more such weekly newspapers as aforesaid, and shall also forthwith transmit, by the post, a copy of the same to the churchwardens and overseers of the poor of each parish within the said county riding or division, to be by them affixed on the principal door of the church of such parish; and at the foot of every such copy so published or transmitted shall add a notice specifying at what time such order will be inrolled as herein-after provided, and at what time and in what manner any person or persons, or body corporate, aggrieved by such order, may petition against the same, or any part thereof, as herein-after provided.

IX. And be it further enacted, That in every such order, some time, not earlier than the fourth quarter sessions next after the making thereof, shall be provisionally specified, on which the same shall be inrolled as herein-after provided, subject to such alteration as may thereafter be made either in the particulars of the said order, or in the time of its inrolment; and that at any court of quarter sessions preceding such time, it shall and may be lawful for any one or more person or persons, or body corporate, jointly or severally, to present a petition in writing to such court, against all or any part of such order, and to produce witnesses in support of such petition; and the justices at such court assembled shall and they are hereby required to hear and determine, in a summary way, the merits of such petition, and to amend such order so far as may, upon such hearing, appear proper and convenient: Provided always, that no such petition shall be received or examined into, unless after due proof that a notice in writing, specifying the grounds thereof, which upon the hearing shall alone be inquired into, hath been served, ten clear days

before the commencement of such sessions, upon one of the overseers of the poor, or the tithingman or constable, or two substantial housekeepers of the parish, tithing, township, or place respectively, as the case may be, wherein such petitioner or petitioners shall be resident at the time of presenting such petition, and also lodged, twenty clear days before such commencement, at the office of the clerk of the peace, who shall and he is hereby required forthwith to transmit a copy thereof to each of the justices usually acting within or for the district or places or place named in such notice.

X. And be it further enacted, That so soon as all such petitions against such order shall have been determined, and such amendments made therein as shall have appeared necessary or proper, the justices at such quarter sessions shall cause to be inserted therein some day not earlier than one month after such sessions from which the same shall take effect, and shall cause the same order to be inrolled, and the same shall remain an order of sessions, controlling any order or orders of sessions heretofore made for the separate constitution of any new divisions, or the partial alteration of any accustomed divisions, under the former provisions of this Act, and not subject itself to revocation or alteration of any kind for the space of ten years thence next ensuing; and during such ten years no such statement shall be received or proceedings had thereon as above-mentioned, but during all that time, and until further order of sessions after the expiration of that time, the several divisions, as limited modelled or constituted in and by such order, shall be and be taken to be, for all the purposes in this Act mentioned, the lawful divisions of such county riding or division, having such separate commission of the peace, for the meetings of justices in special sessions, under any statute now in force, or hereafter to be made, and containing no special provision to the contrary; and all bailiffs, constables, tithingmen, surveyors, overseers of the poor, and other officers, publicans, keepers of taverns coffee-houses and victualling-houses, and other persons, shall and they are hereby required thenceforward, during the time last above limited, to give their attendance to and upon the justices of the peace at any time assembled in such special sessions, within the same divisions respectively, as fully and effectually as by law they have been bound to do within any division reputed and taken before the passing of this Act to be a lawful and accustomed division for the meetings of justices for any of the purposes aforesaid.

XI. And be it further enacted, That immediately after the inrolment of such order, the clerk of the peace shall and he is hereby required to cause to be published a copy of the same in three successive numbers of one or more such weekly newspapers as aforesaid, and shall also transmit one copy thereof to each justice of the peace dwelling within or usually acting within and for such county riding or division, having such separate commission of the peace.

XII. And be it further enacted, That no order to be made, nor any proceeding to be had or taken, in pursuance of this Act, shall be quashed or vacated for want of form, or removed by *certiorari*, or any other writ or process whatever, into any of his Majesty's Courts of Record at *Westminster*; any law or statute to the contrary notwithstanding.

XIII. And be it further enacted, That nothing in this Act contained shall extend or be construed or taken to extend to the county of *Middlesex* in *England*, or to *Scotland* or *Ireland*.

Order to be inrolled as soon as Petitions against the same have been determined, and shall not be subject to Alteration for ten Years.

Clerk of Peace to publish Copy of Inrolment.

Proceedings not to be quashed for want of Form.

Not to extend to *Middlesex*, &c.



PART VI.

CLASS XII.

*Distress.**

[No. 1.] 27 George II. c. 20.—An Act for the more easy and effectual Proceeding upon Distresses to be made by Warrants of Justices of the Peace.

‘WHEREAS by many Acts of Parliament justices of the peace are empowered to issue warrants for the distress and sale of goods and chattels, but the charges of distraining keeping and sale of such goods and chattels are not provided for in all the said Acts, nor is there a time in all cases limited for the sale thereof, whereby inconveniences have arisen:’ Therefore for remedy thereof, Be it enacted by the King’s most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That in all cases where any justice or justices of the peace is or are or shall be required or empowered by any Act or Acts of Parliament now in force or hereafter to be made, to issue a warrant of distress for the levying of any penalty inflicted or any sum of money directed to be paid by or in consequence of such Act or Acts, it shall and may be lawful for the justice or justices granting such warrant therein to order and direct the goods and chattels so to be distrained to be sold and disposed of within a certain time to be limited in such warrant, so as such time be not less than four days nor more than eight days, unless the penalty or sum of money for which such distress shall be made together with the reasonable charges of taking and keeping such distress be sooner paid.

27 Geo. II.
c. 20.

Justices to limit in their Warrants of Distress,

not less than Four nor more than Eight Days.

II. And be it further enacted, That the officer making such distress shall and is hereby empowered to deduct the reasonable charges of taking keeping and selling such distress out of the money arising by such sale; and the overplus (if any) after such charges and also the said penalty or sum of money shall be fully satisfied and paid, shall be returned on demand to the owner of the goods and chattels so distrained; and the officer executing such warrant if required shall shew the same to the person whose goods and chattels are distrained, and shall suffer a copy thereof to be taken.

Officer to deduct the Charges of keeping and selling; Overplus to be returned.

III. Provided always, That nothing herein contained shall extend or be construed to extend to alter or repeal any of the provisions or directions relating to distresses to be made for the payment of tithes and church rates by the people called *Quakers*, contained in an Act passed in the seventh and eighth years of his late Majesty King William the Third, intituled *An Act that the solemn Affirmation and Declaration of the People called Quakers shall be accepted instead of an Oath in the usual Form*; or in one other Act passed in the first year of his late Majesty King George the First, intituled *An Act for making perpetual an Act of the seventh and eighth Years of the Reign of his late Majesty King William the Third, intituled An Act that the solemn Affirmation and Declaration of the People called Quakers shall be accepted instead of an Oath in the usual Form*; and for explaining and enforcing the said Act in relation to the

Provisions relating to Tythes in 7 and 8 Will. 3. c. 34.

and 1 Geo. 1. c. 6. not altered.

* For Statutes relating to Distress for Rent, see Part IV.

- No. I. *Payment of Tythes and Church Rates; and for appointing the Form of an*
27 Geo. II. *Affirmation to be taken by the said People called Quakers instead of the Oath*
c. 20. *of Abjuration.*
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[No. II.] 33 George III. c. 55.—An Act to authorize Justices of the Peace to impose Fines upon Constables, Overseers, and other Peace or Parish Officers, for Neglect of Duty, and on Masters of Apprentices for Ill Usage of such their Apprentices; and also to make Provision for the Execution of Warrants of Distress granted by Magistrates.—[21st June 1793.]

[Inserted ante in this Volume, title *Apprentices*, Class II. No. XI.]

PART VI.

CLASS XIII.

Dogs.

[No. I.] 10 George III. c. 18.—An Act for preventing the Stealing of Dogs.

‘ WHEREAS the practice of stealing dogs hath of late years greatly increased: For remedy whereof may it please your Majesty that it may be enacted,’ and be it enacted by the King’s most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That from and after the first day of *May* one thousand seven hundred and seventy, if any person shall steal any dog (1.) or dogs of any kind or sort whatsoever from the owner or owners thereof, or from any person or persons intrusted by the owner or owners thereof with such dog or dogs; or shall sell buy receive harbour detain or keep any dog or dogs of any kind or sort whatsoever, knowing the same to have been stolen as aforesaid, every such person upon being convicted thereof upon the oath of one or more credible witness or witnesses, or by his or her own confession before any two or more justices of the peace for any county riding division or place, shall for the first offence forfeit and pay such sum of money not exceeding thirty pounds nor less than twenty pounds as to such justices shall seem meet, together with the charges previous to and attending such conviction, to be ascertained by such justice before whom such offender shall be convicted: And in case such penalty shall not be forthwith paid, such justices shall commit the offender to the common gaol or house of correction, there to remain without bail or mainprize for any time not exceeding twelve calendar months nor less than six calendar months, or until the penalty and charges shall be paid: And if any person having been convicted as aforesaid shall afterwards be guilty of the like offence, and shall be thereof convicted in like manner as aforesaid, every such person shall for every such offence forfeit and pay such sum of money not exceeding fifty pounds nor less than thirty pounds as to such justices shall seem meet, together with the charges previous to and attending such conviction, to be ascertained by such justices before whom such offender or offenders shall be so convicted: Which said penalties or any of them when recovered shall be paid one moiety thereof to the informer and the other moiety to the poor of the parish where the offence shall be committed; and upon non-payment thereof such justices shall commit (2.) the offender to the common gaol or house of correction, there to remain without bail or mainprize for any time not exceeding eighteen months nor less than twelve months, or until the penalty and charges shall be

10 Geo. III.
c. 18.

First Offence to
forfeit not less
than 20*l.* &c.

Subsequent Of-
fence to forfeit
not less than
30*l.* &c.

(1.) I apprehend that there is not much ground for the doubt of Dr. Burn, whether this Provision would extend to stealing a Bitch: the Name being evidently intended to denote the Species. His other observations on the Act seem entitled to much greater attention.

(2.) A commitment for non-payment of a pe-
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nalty upon conviction under this Statute is good, if it shew who the informer is and what the parish, although upon the conviction, as it is recited in the commitment, the informer is not named, and the Justices only adjudge the penalty to be applied in such manner as the law directs. *Rex v. Helps*, 3 M. & S. 331.

M

No. I.

10 Geo. III.
c. 18.Justices to
grant Warrants,
&c.

paid; and such justices shall also order the said offender to be publicly whipped within three days after such commitment, in the town wherein such gaol or house of correction shall be, between the hours of twelve and one of the clock.

II. And be it further enacted by the authority aforesaid, That it shall and may be lawful to and for any one or more of his Majesty's justices of the peace in or for any county riding division or place, upon information to him or them made for that purpose, to grant a warrant or warrants to search for any dog or dogs stolen as aforesaid, and in case any such dog or dogs or the skin or skins of such dog or dogs shall upon such search be found, to take and restore every such dog or dogs or such skin or skins to the owner thereof; and the person or persons in whose custody or possession any such dog or dogs skin or skins shall be so found (in case it shall appear that such person was privy to such dog or dogs having been stolen as aforesaid, or that such skin or skins was the skin or skins of any dog or dogs stolen as aforesaid) shall respectively be subject and liable to the like penalties and punishments as persons convicted of stealing any dog or dogs are herein-before made subject and liable to.

Justices may
cause to be
drawn up the
following

III. And for the more easy and speedy conviction of offenders against this Act be it further enacted, That all justices of the peace before whom any person or persons shall be convicted of any offence against this Act shall and may cause the conviction to be drawn up in the following form of words, or in any other form of words to the same effect, as the case shall happen; *videlicet*,

Form of Con-
viction.

BE it Remembered, That on the _____ day of _____ in the year _____ of our Lord A. B. is convicted before us, _____ of his Majesty's Justices of the Peace for the county of _____ (specifying the Offence and the Time and Place when and where the same was committed, as the case shall be.)
'Given under our hands and seals the Day and Year aforesaid.'

Appeal.

IV. Provided always, and be it further enacted, That if any person shall think himself or herself aggrieved by any thing done in pursuance of this Act, such person may appeal to the justices of the peace at the next general quarter sessions of the peace to be held for the county or place wherein the cause of complaint shall arise, and within four days after the cause of such complaint shall have arisen; such appellant giving or causing to be given fourteen days notice at least in writing of his or her intention to bring such appeal and of the matter thereof to the persons whose acts are complained against; and within two days after such notice entering into a recognizance before some justice of the peace for such county or place, with two sufficient sureties conditioned to try such appeal and abide the order of and to pay such costs as shall be awarded by the justices at such quarter session: And the said justices at such session upon due proof of such notice being given as aforesaid, and of the entering into such recognizance, shall hear and finally determine the causes and matters of such appeal in a summary way, and award such costs to the parties appealing or appealed against as they the said justices shall think proper; and the determination of such quarter sessions shall be final binding and conclusive to all intents and purposes; and no order made concerning any of the matters aforesaid or any other proceedings to be had touching the conviction or convictions of any offender against this Act, shall be quashed for want of form or be removed by *certiorari* or any other writ or process whatsoever into any of his Majesty's courts of record at *Westminster*.

PART VI.

CLASS XIV.

*Examination.**

[No. I.] 1 and 2 Philip and Mary, c. 13.—An Act touching Bailment of Persons.

[At length in Vol. VI.]

[No. II.] 2 and 3 Philip and Mary, c. 10.—An Act to take Examination of Prisoners suspected of any Manslaughter or Felony.

[At length in Vol. VI.]

* The following Statutes are inserted in Part V. title *Criminal Proceedings*.

PART VI.

CLASS XV.

Fireworks.

[No. I.] 9 and 10 William III. c. 7.—An Act to prevent the throwing or firing of Squibbs, Serpents, and other Fireworks.

WHEREAS much mischief hath lately happened by throwing casting and firing of squibbs serpents rockets and other fireworks, some persons having thereby lost their lives others have had their lives in great danger and several other damages have been sustained by many persons, and much more may thereby happen if not speedily prevented: For remedy whereof for the future, be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That from and after the five-and-twentieth day of March one thousand six hundred and ninety-eight, it shall not be lawful for any person or persons, of what age sex degree or quality soever, to make or cause to be made or to sell or utter or offer or expose to sale any squibbs rockets serpents or other fireworks, or any cases moulds or other implements for the making any such squibbs serpents rockets or other fireworks, or for any person or persons to permit or suffer any squibbs serpents rockets or other fireworks to be cast thrown or fired from out of or in his her or their house or houses lodgings or habi-

9 & 10 Will. III.
c. 7.

No Person whatsoever shall make, sell, &c. Squibbs, Rockets, etc, Serpents, &c. or Cases, Moulds, &c. for making such Squibbs.

No. I.
9 & 10
Will. III.
c. 7.

Penalty on
Persons throw-
ing or firing
Squibs, &c.

or suffering
them, &c. to
be thrown or
fired from their
Houses.

Forfeitures how
to be levied and
applied.

Offender not
paying Forfeit-
ure to be com-
mitted to the
House of Cor-
rection, &c.

Officers of the
Ordinance, &c.
may order the
making of Fire-
works, &c.

tations, or from out of or in any part or place thereto belonging or adjoining into any public street highway road or passage, or for any person or persons, of what degree quality or age soever, to throw cast or fire or to be aiding or assisting in the throwing casting or firing of any squibbs serpents rockets or other fireworks in or into any public street house shop river highway road or passage, and that every such offence shall be and is hereby adjudged to be a common nuisance.

II. And be it further enacted by the authority aforesaid, That if any person or persons, of what age sex degree or quality soever, from and after the said five-and-twentieth day of *March* shall make or cause to be made or shall sell give or utter or offer or expose to sale any squibbs rockets serpents or other fireworks, or any cases moulds or other implements for the making of any such squibbs rockets serpents or other fireworks, that then every such person or persons so offending and being thereof convicted before one or more justice or justices of the peace of the county limit division corporation or liberty, or chief magistrate of the place where such offence shall be committed, either by the confession of the party or parties so offending or the oath of two witnesses (which oath the said justice or justices of peace or chief magistrate is and are hereby empowered and required to administer) shall for every such offence forfeit the sum of five pounds: And if any person or persons whatsoever from and after the said five-and-twentieth day of *March* shall permit or suffer any squibbs serpents rockets or other fireworks to be cast thrown or fired from out of or in his her or their house or houses shops dwelling lodging or habitation or from out of or in any part thereof or place thereto belonging or adjoining into any public street highway road or passage or any other house or place whatsoever, that then every such person or persons so as aforesaid last offending and being thereof as aforesaid convicted shall for every such offence forfeit the sum of twenty shillings; the said several forfeitures to be levied by distress and sale of the goods and chattels of every such offender by warrant under the hand and seal of the said justice or justices of the peace or chief magistrate before whom such conviction or convictions shall be as aforesaid made; the one half of the said forfeitures to be to the use of the poor of the parish where every such offence shall be committed and the other half to the use of him or them who shall prosecute and cause such offender or offenders to be as aforesaid convicted.

III. And be it further enacted by the authority aforesaid, That if any person or persons, of what age sex degree or quality soever, from and after the said five-and-twentieth day of *March* shall throw cast or fire or be aiding or assisting in the throwing casting or firing of any squibbs rockets serpents or other fireworks in or into any public street house shop river highway road or passage, that then every person so offending and being thereof as aforesaid convicted shall for every such offence forfeit the sum of twenty shillings to the uses aforesaid; and if the person or persons so as aforesaid last offending shall not immediately (upon his her or their being thereof as aforesaid convicted) pay to the said justice or justices of the peace or chief magistrate before whom such conviction shall be as aforesaid made the said forfeiture or forfeitures for the uses aforesaid, that then every such justice or justices of the peace or chief magistrate is and are hereby empowered and required by warrant under his or their hands and seals to commit every such person or persons so as aforesaid last offending to the house of correction within the county division limit corporation or liberty where such offence as is last mentioned shall be committed, there to remain to be set and kept to hard labour without bail or mainprize for any time not exceeding one month, unless such offender as is last mentioned shall sooner pay such forfeiture or forfeitures to the said justice or justices of the peace or chief magistrate.

IV. Provided always, and be it further enacted by the authority aforesaid, That it shall and may be lawful to and for the master lieutenant or commissioners of his Majesty's ordinance for the time being or any other person or persons to be by them or any of them authorised to give orders and directions for the making any sort of fireworks to be used and fired

according to such orders and directions as shall be from time to time given by the said master lieutenant or commissioners of his Majesty's ordnance or any other person or persons to be by them for that purpose authorised; any thing herein contained to the contrary thereof in any wise notwithstanding.

V. Provided always and be it enacted, That it shall and may be lawful to and for the Artillery Company of the City of *London* or any other artillery company or society of persons lawfully met together for the use and exercise of arms, the Trained Bands, the Militia of this kingdom respectively, to make and use any sorts of fireworks in the exercise and practice of arms and warlike exploits only, in such manner as they or any of them might lawfully have done before the making of this Act; any thing herein contained to the contrary thereof in any wise notwithstanding.

VI. And be it further enacted by the authority aforesaid, That if any person be at any time sued for putting in execution this Act or any the powers therein contained, that then such person so sued shall and may plead the general issue of not guilty and give the special matter in evidence; and if the plaintiff in such suit or action be nonsuit or a verdict pass for the defendant, or if such plaintiff discontinue his action or if upon a demurrer judgment be given for the defendant, every such defendant shall have his full treble costs, to be paid by such plaintiff, and the like execution for the same as in any case where costs are given at law for the defendant.

No. I.

9 & 10
Will. III.
c. 7.

Artillery Com-
pany of London,
&c. may use any
Sorts of Fire-
works in the
Exercise of
Arms, &c.

General Issue.

Treble Costs.

PART VI.

CLASS XVI.

*Fish.**

* In making the following Collection of the Statutes relating to this Title, I have availed myself of the assistance of Mr. Chitty's Appendix to his Treatise on the Game Laws, and on Fisheries; and have interlined all such Statutes connected with the Plan of the Work as relate to the subject, although they may not fall immediately within the object of this part of it, as relating to the Office of a Justice of Peace. Some of the more ancient Statutes may have become obsolete in practice, and inapplicable to the existing state of the law; but as the space which they occupy is very inconsiderable, I have thought it more eligible that they should be inserted. The Titles only are noticed of such as are of a local nature, and which relate to the Regulation of the Fishery as a Branch of Commerce; and no mention is made of those which relate to the Herring or Greenland Fisheries.

[No. I.]—MAGNA CHARTA.—9 Henry III. Stat. 1. c. 23.
In what Places Wears shall be put down.

9 Henry III.
c. 23.

ALL wears, from henceforth shall be utterly put down by *Thames and Medway*, and through all England except by the sea-coast.—(Confirmed and amended by 12 Edw. 4 c. 7.—See 2 Inst. 38.—10 Co. 138.—13 Co. 35). (1.)

(1.) See *Weld v. Hornby*, 7 East. 195.

[No. II.] Stat. Westm. 2. c. 47. Anno 13 Edward I.
stat. 1. c. 47.

13 Edward I.
st. 1. c. 47.
The Penalty of
taking Salmon
at certain Times
of the Year.

IT is provided that the waters of Humber Owse Trent Done Aire Derwent Wherefe Nidd Yore Swale Tese Tine Eden and all other waters (wherein salmons be taken) within the kingdom, shall be in defence for taking salmons from the Nativity of *Our Lady* unto *St. Martin's Day*. And that likewise young salmons shall not be taken nor destroyed by nets nor by other engines at millpools, from the midst of *April* unto the Nativity of *St. John Baptist*. And in places where such rivers be there shall be assigned overseers of this statute, which being sworn shall oftentimes see and inquire of the offenders: and for the first trespass they shall be punished by burning of their nets and engines: and for the second time they shall have imprisonment for a quarter of a year: and for the third trespass they shall be imprisoned a whole year: and as their trespass increaseth so shall the punishment. (Confirmed by 13 R. 2. st. 1. c. 19. 17 R. 2. c. 9. St. 25 H. 8. c. 7. and see 2. Inst. 477.)

17 Edward II.
st. 1. c. 11.

[No. III.] Prerogativa Regis, made Anno 17 Edw. II.
st. 1. and A. D. 1324.—Cap. 11. His Prerogative in
having the Wreck of the Sea, Whales and Sturgeons.

5 Co. 106. 108.
1 H. 7. f. 23.
11 H. 4. f. 16.
9 H. 7. f. 20.
35 H. 6. f. 27.

ALSO the King shall have wreck of the sea throughout the realm, whales and great sturgeons taken in the sea or elsewhere within the realm, except in certain places privileged by the King.

[No. IV.] 13 Rich. II. Stat. 1. c. 19. Anno Dom. 1399.
—A Confirmation of the Statute of 13 Edw. I. c. 47.
touching the taking of Salmons.

Item, WHEREAS it is contained in the Statute of *Westminster* the

Second that young salmons shall not be taken nor destroyed by nets nor by other engines at mildams, from the midst of *April* till the Nativity of *St. John Baptist*, upon a certain pain limited in the same statute: it is accorded and assented that the said statute be firmly holden and kept, joining to the same that young salmons shall not be taken during the said time at mil-dams nor in other places upon the same pain: And that no fisher or garthman, nor any other of what estate or condition that he be, shall from henceforth put in the waters of *Thamise Humber Ouse Trent* nor any other waters of the realm by the same time, nor in any other time of the year, any nets called stalkers nor other nets nor engines whatsoever they be, by the which the frie or the breed of the salmons lampreys or any other fish may in any wise be taken or destroyed upon the pain aforesaid: And also where it is contained in the same statute that all the waters in which salmons be taken within the realm, shall be put in defence as to the taking of salmons from the Day of the Nativity of *Our Lady* until *St. Martin's Day*: it is ordained and assented, that the waters of *Lone Wyre Mersee Rybbyl* and all other waters in the county of *Lancaster* be put in defence as to the taking of salmons from *Michaelmas day* to the Purification of *Our Lady* and in no other time of the year, because that salmons be not seasonable in the said waters in the time aforesaid. And in the parts where such rivers be, there shall be assigned and sworn good and sufficient conservators of this statute as it is ordained in the said statute of *Westminster*, and that they shall punish the offenders after the pain contained in the same statute without any favour thereof to be shewed. *St. 17 R. 2. c. 9.*

No. IV.

13 Rich. II.
st. 1. c. 19.

13 Rich. II.
c. 19.

A Confirmation
of the Statute
of 13 Ed. I. c. 47.
touching the
prohibiting of
Salmons to be
taken certain
times of the
Year.

4 Inst. 51.

There shall be
no Devices
practised where-
by the Frie of
Fish shall be
destroyed.

What Time of
the Year the
Rivers in the
County of Lan-
caster shall be
in Defence.

Conservators of
this Statute and
their Authority.

[No. V.] 17 Richard II. c. 9. Anno Dom. 1393.—Justices of the Peace shall be Conservators of the Statutes made touching Salmons.

Item, WHERE it is contained in the Statute of *Westminster* the Second,

that young salmons shall not be taken nor destroyed by nets or by other engines at the stanks of mills, from the midst of *April* till the Nativity of *St. John the Baptist*, upon a certain pain limited in the same statute: and whereas by a statute made the thirteenth year of the King that now is, it was ordained that the said Statute of *Westminster* the Second should be firmly holden and kept, joining to the same that young salmons should not be taken at the mills stanks or elsewhere upon the said pain: And that no fisher nor garthman, nor none other of what estate or condition that he were, should not put from henceforth in the waters of *Thamise Humber Ouse Trent* nor none other water of the realm by the same time, nor by none other time of the year, any nets called stalkers nor other nets or engines whatsoever, whereby the frie or breed of salmons lampreys or of any other fish whatsoever may in any wise be taken or destroyed upon the pain aforesaid: And also it was rehearsed in the said statute made the said thirteenth year, that where it is contained in the same Statute of *Westminster* that all the waters in which salmons be taken in the realm shall be put in defence as to the taking of salmons from the Day of the Nativity of *Our Lady* till *St. Martin's Day*: it was ordained and assented in the said statute made in the said thirteenth year: that the waters of *Lone Wire Mersee Ribbil* and all other waters in the county of *Lancaster* should be put in defence as to the taking of salmons from the Day of *St. Michael* till the Day of the Purification of *Our Lady*, and in none other time of the year, because that salmons be seasonable in the said waters by the time aforesaid: and that in the parts where such rivers be, good and sufficient conservators of the said statute made the

17 Richard II.
c. 9.

St. 13. Ed. 1.

St. 1. c. 47.

St. 13. R. 2.

St. 1. c. 19.

Stalkers nor
other Nets shall
be used to De-
stroy the Frie
or Breed of
Fish.

No. V.
17 Rich. II.
c. 9.

The Justices of the Peace shall be Conservators of the Statutes of 13 Ed. I. c. 47. and 13 R. II. c. 12.

Under-conservators appointed by the Justices.

The Mayor of London shall have the Conservation of the Statute in the Thames.

said thirteenth year should be assigned and sworn as it was ordained in the Statute of *Westminster*, and that they should punish the offenders upon the pain contained in the same Statute of *Westminster* without shewing any favour thereof: which statutes have not been hitherto duly executed for default of good conservators, as our said Lord the King hath perceived by complaint to him made in this present Parliament: wherefore it is accorded and assented that the justices of the peace of all the counties of England, shall be conservators of the said statutes in the counties where they be justices; and that they and every of them at all times when they may attend shall survey the offences and defaults attempted against the statutes aforesaid. And also shall survey and search all the wears in such rivers that they shall not be very straight for the destruction of such fry and brood but of reasonable wideness after the old assise used or accustomed: and that the same justices or any of them which shall find default or abuse against the statutes aforesaid, shall make due punishment of them which be found in default after the contents of the same statute. And that the same justices shall put good and sufficient under-conservators of the same statutes under them, which shall be sworn to make like surveying search and punishment without any favour thereof to be shewed. And moreover that the same justices in their sessions shall inquire as well by their office as at the information of the under-conservators aforesaid, of all trespasses misprisons and defaults made against any of the points aforesaid, and shall cause them which be thereof indicted to come before them; and if they be thereof convict they shall have imprisonment and make fine after the discretion of the same justices. And if the same be at the information of any of the under-conservators aforesaid, the same under-conservator shall have half of the same fine. And forasmuch as it is granted to the citizens of London by the King's progenitors, that they may remove and take away all the wears in the waters of *Thamis* and *Medeway*, and that they shall have the punishments thereof pertaining to the King: our said Lord the King in this present Parliament by the assent aforesaid hath granted, that the mayor or warden of *London* for the time being shall have the conservation of the statutes aforesaid: and shall make thereof due execution and like punishment as afore is ordained of the justices of the peace in the said waters of *Thamis* from the bridge of *Staines* to *London* and from thence over the same water and in the said water of *Medeway* as far as it is granted to the said citizens as afore is said.

[No. VI.] 2 Henry VI. c. 15. Anno Dom. 1423.—No Man shall fasten Nets to any Thing over Rivers.

2 Hen. VI.
c. 15.

The Penalty of those which do fasten Trinks or other Nets over any River.

In what Sort Owners of Trinks may Fish with them.

Item, IT is ordained, That the standing of nets and engines called trinks and all other nets which be and were wont to be fastened and hanged continually day and night by a certain time in the year to great posts boats and ancores overthwart the river *Thames* and other rivers of the realm, which standing is a cause of as great and more destruction of the brood and fry of fish and disturbance of the common passage of vessels as be the wears kydels or any other engines, be wholly defended for ever. And that every person that setteth or fastneth them hereafter to such posts boats and ancores or the like thing continually to stand as before is said, and be duly thereof by the course of the law convict, shall forfeit to the King 100 shillings at every time that he is so proved in default. Provided always, That it shall be lawful to the possessors of the said trinks if they be of assise to fish with them in all seasonable times, drawing and pulling them by hand as other fishers do with other nets, and not fastening or tacking the said nets to posts boats and ancores continually to stand as afore is said. Saving always to every of the King's liege people their right title and inheritance in their fishings in the said water.

[No. VII.] 31 Henry VIII. c. 2. A. D. 1539.—An Act that Fishing in any several Pond or Mote, with an Intent to steal Fish out of the same, is Felony.

No. VII.

31 H. VIII.

c. 2.

31 Hen. VIII.
c. 2.

WHEREAS divers and many of the lords knights esquires gentlemen and other the King's subjects within this his realm at their great costs and charges have caused to be made within their several grounds many ponds stews and motes and stored them with divers kinds of fishes as pikes bremes carps tenches and other fishes whereof they have thought to have had great commodity as well for the pleasure of their friends as for their own commodity and profit towards the necessary finding of their houses, divers and many light and unreasonable persons of this realm, being of no good rule nor honesty little or nothing regarding God the fear of their Sovereign Lord the King's highness nor his laws, have not only fished the said ponds stews and motes as well by night as by day with nets hooks and baits of divers sorts but also with great number of misruled persons have entered into such grounds and there with great violence have broken up the heads of the same ponds stews and motes and destroyed and taken the fish of the said ponds stews and motes to the great displeasure and losses of the owners of the said ponds stews and motes and contrary to all good reason right and conscience: Wherefore be it enacted by the King our Sovereign Lord, with the assent of the Lords Spiritual and Temporal and the Commons in this present Parliament assembled, and by the authority of the same, That as well all manner of fishings with any nets hooks or baits of what kind soever they be in any several pond stew or mote, with an intent to steal fish out of the same, done or committed at any time after the Feast of the Nativity of *St. John Baptist* next coming, that is to say in the thirty-first year of the reign of our said Sovereign Lord, from the hour of six in the even-tide unto the hour of six in the morning, against the wills and minds of the owners or possessioners of such ponds stews or motes, as also the unlawful breaking up of the head of any several pond stew or mote by day or by night after the said Feast without colour of title so to do, whereby any fish of the same pond stew or mote is taken or destroyed against the will or mind of the owner or possessioner of the same, be to all intents deemed taken and adjudged felony; and that those persons so offending shall have and suffer all such pains of death and punishments as other felons ought to have and suffer for felony by the course of the laws of this realm.

All Fishing with Nets, &c. with Intent to steal Fish in the Night, or breaking the Head of a Pond to take Fish, shall be Felony.
This Section repealed by
1 Ed. 6. c. 12.
1 M. 2. 1. c. 1.

Punishment of Persons fishing in Day-time.

II. And also be it further enacted by the authority aforesaid, That if any such evil-disposed persons after the Feast before limited do fish in the day-time at any other time than is before rehearsed, in any such several ponds stews or motes with any manner of nets hooks or baits as is aforesaid what kind soever they be of, against the will pleasure and mind of the owners or possessors of the same several ponds stews or motes, not having any manner of colour of title so to do, and thereof be lawfully convict at the suit of our Sovereign Lord the King or the party grieved, that then the said parties so convicted shall suffer imprisonment by the space of three months, and after the said three months expired shall find sufficient surety for his or their good abiding, or else to remain still in prison without bail or mainprize unto such time he or they can find such surety.

[No. VIII.] 1 Eliz. c. 17.—An Act for the Preservation of Spawn and Fry of Fish.

1 Eliz. c. 17.

FOR the preservation hereafter of spawn fry and young breed of eels salmons pikes and of all other fish which heretofore hath been much destroyed in rivers and streams salt and fresh within this realm in so much that in divers places they feed swine and dogs with the fry and spawn of fish and otherwise (lamentable and horrible to be reported)

No Person shall take the Spawn or Fry of any Fish.
13-Edw. 1. c. 47.

No. VIII.

1 Eliz. c. 17.

destroy the same to the great hinderance and decay of the common-wealth; Be it therefore enacted by the Queen's most excellent Majesty, the Lords Spiritual and Temporal and the Commons in this present Parliament assembled, and by the authority of the same, That no person or persons of what estate degree or condition soever he or they be from, and after the first day of *June* next coming, within any manner of net, weele but taining kepper lime crele raw fagnet trolnet trimenot trimbote, stalbtote weblister seur lammet, or with any device or engine made of hair wool line or canvass, or shall use any beeling net or trim-boat, or by any other device engine cawtel wayes or means whatsoever heretofore made or devised or hereafter to be made or devised, shall take and kill any young brood spawn or fry of eeles salmon pike or pikerel, or of any other fish in any floudgate pipe at the tail of a mill weare or in any straits, streams brooks rivers fresh or salt within this realm of *England Wales Berwick* or the Marches thereof; nor shall from and after the first day of *June* next coming by any of the ways and means aforesaid or otherwise in any river or place above specified, take and kill any salmons or trowts not being in season being kepper salmons or kepper trowts shedder salmons, or shedder trowts.

None shall take any Salmons or Trowts not in Season.

Of what Length Fishes must be, that shall be taken and killed.

Of what Mesh each Net shall be.

What Nets or other Devices may be used for the taking of small Fish.

The Penalty of the Offender altered by 1 Geo. 1. c. 14. st. 2. c. 13. s. 14.

What Persons shall have Authority to inquire of and determine the Offences aforesaid, and who shall have the Forfeitures.

II. And be it further enacted by the authority aforesaid, That no person or persons, of what estate degree or condition he or they shall be of, from and after the said first day of *June* by any of the means aforesaid, in any of the rivers or places above-named shall take and kill any pike or pikerel not being in length ten inches or more; nor any salmon not being in length sixteen inches and more; nor any trowt not being in length eight inches or more; nor any barbel not being in length twelve inches or more.

III. And to the intent the said young fry brood or spawn may be preserved according to the true meaning hereof, Be it further enacted by the authority aforesaid, That no manner of person or persons from and after the first day of *June* next coming shall fish or take fish with any manner of net tramell kepe wore hivie crele or by any other engine device ways or means whatsoever, in any river or other places above mentioned but only with net or tramell, whereof every mesh or mask shall be two inches and a half broad, angling excepted.

IV. Provided nevertheless, and be it enacted by authority aforesaid, That in all such places where smelts loches minneis bulheads gudgeons or eeles have been used to be taken and killed, that in all such places it shall be lawful only for the taking of smelts loches minneis gudgeons and eeles to use such nets lepes and other engines devices ways and means as heretofore have been used for the taking of the same; so that such person or persons using or occupying such nets or other engines as is last afore-mentioned do not take kill or destroy any other fish with the said nets or engines contrary to the tenour and form above in this statute contained.

V. And be it further enacted, That if any person or persons after the above said day limited in this present Act offend in any of the points before rehearsed contrary to the tenour form and purpose of any part of the same, that then every such person and persons so offending shall lose and forfeit for every time of his or their offence the sum of twenty shillings and the fish so taken contrary to the tenour hereof, and also the unlawful nets engines devices and instruments whatsoever they be wherewith or whereby such offence shall fortune to be made committed or done.

VI. And to the intent that a perfect execution may be had of this present Act, be it further ordained by authority aforesaid, That the Lord Admiral of *England* and the Mayor of the city of *London* for the time being and all and every other person and persons bodies politick and corporate which by grant or other lawful ways or means lawfully have or ought to have any conservation or preservation of any rivers streams or water or punishments and corrections of offences committed in any of them, shall have full power and authority by virtue of this Act to inquire of all the offences to be committed and done contrary to the effect and

true meaning of this Act within his or their such lawful rule government jurisdiction and conservancy by the oaths of twelve men or more, and to hear and determine all and every the same offences committed within his or their such jurisdiction conservancy rule and government.

No. VIII.

1 Eliz. c. 17.

VII. And that all such pains and forfeitures as shall rise or grow by the reason of any such conviction for any the offences aforesaid shall be to the use of every of the said person and persons, being no body politick or corporate nor head of any body politick or corporate, before whom such conviction as is aforesaid shall be had, and to the use of every such body politick and corporate as heretofore have lawfully had any fines forfeitures and amerciaments for any offence lawfully committed or done in any such their jurisdiction or conservances upon conviction had before the head of any such body politick or corporate.

VIII. And that also the lord of every leet within this realm of *England* and *Wales* or the dominions of the same shall have full power and authority to inquire of all the offences contrary to the purport tenour and form of this estatute within the precinct of their said leet; such inquiry to be had in manner and form and after such sort as common amerciaments or other things inquirable in their court leet have been lawfully used and accustomed to be had and made.

IX. And that upon every such presentment had in any court or leet by the oath of twelve men or more as is aforesaid, of any offence or offences made contrary to the tenour of this estatute: that then all such forfeitures above in this estatute limited and appointed for such offence shall be unto the lord of the said leet for the time being to his own use for ever, and shall be levied in such manner and form as amerciaments for affrays committed within the precinct of such leet have been used and accustomed to be levied.

X. And if any leet after the said first day of *June* be kept within this realm of *England* or *Wales* or the dominions thereof, and the steward of the said leet for the time being or other for him do not charge the jury sworn in such leet to inquire of all the offences done within the precinct of the said leet contrary to the tenour and form of this estatute; that then the steward of the said leet to lose and forfeit forty shillings; the one moiety of which forfeitures shall be to the Queen's Majesty her heirs and successors, and the other moiety to him that will sue for the same. And if any jury sworn in any leet and being charged to inquire of the offences committed within the precinct of that leet do wilfully and willingly conceal and make default in presentment or do not present the offence and offenders; that then it shall be lawful to the steward or bailiff of the leet or his or their deputy for the time being to impanel one other jury within the said leet, and to inquire of such concealment default or non-presentment, and that upon such concealment default or non-presentment found and presented every of the said jurors which so did conceal make default or not present shall lose and forfeit for every such offence twenty shillings to the lord of the said leet, the same to be levied in manner and form as is aforesaid for the other offences limited and expressed.

The Forfeiture of the Steward of a Leet, that doth not give this Statute in charge.

The Forfeiture of a Jury in a Leet, that doth conceal any Offence.

XI. And it is further enacted by authority aforesaid, That if the offences above-mentioned, touching the taking killing or destroying of fish or fry and spawn, be not presented at the leet where they shall be committed within one year next after the offence committed, that the justices of peace in their sessions justices of oyer and determiner and justices of assize in their several circuits shall have full power and authority to inquire thereof and to hear and determine all the offences committed contrary to the tenour of this estatute.

Who may punish the said Offences, if they be not presented in the Leet.

XII. Saving always to all and every person or persons bodies politick and corporate and every of them all such right title interest claim privilege and conservation and inquiry and punishment of and for any the offences aforesaid as they or any of them lawfully have and enjoy or of right ought to have and enjoy by any manner of means; any thing in this Act to the contrary notwithstanding. This Act to endure to the end of the next Parliament. (Continued, see below.)

A Saving of the Liberties of all Persons having Right to inquire of and punish the said Offences.

No. VIII.

1 Eliz. c. 17.

To what Persons or Waters this Statute doth not extend.

XIII. Provided always, That this Act nor any thing therein contained shall not extend to the fishing of the river or water of Tweed; nor to any river or water whereof the Queen's Majesty is answered of any yearly rent or profit; nor to the owners farmers and occupiers of the rivers of Uske or Wye in the county of Monmouth, for any fish hereafter to be taken in any the rivers or waters before-mentioned and expressed: but that it shall be lawful at all seasonable time and times hereafter for such as have or shall have any manner of interest therein to take and fish the said rivers and waters in such manner and form as heretofore hath been used and accustomed, not using any net or engine to the intent willingly to take kill and destroy the spawn breed or fry breeding any kind of fish within the said several rivers or waters; this Act or any thing therein mentioned or contained to the contrary notwithstanding. 3 Cor. 4. *made perpetual, except as to this last section.* See 3 Jac. I. c. 12. 30 Cor. II. st. 1. c. 9. 4 & 5 Wm. & Mary, c. 23. 4 Ann. c. 21. 9 Ann. c. 26. 1 Geo. I. st. 2. c. 18. 5 Geo. I. c. 18. 23 Geo. II. c. 26. s. 7. 26 Geo. II. c. 9. 30 Geo. II. c. 21 & 30.—and 33 Geo. II. c. 27.

[No. IX.] 5 Eliz. c. 21. A. D. 1562.—An Act for punishing of unlawful taking of Fish, Deer, or Hawks.

5 Eliz. c. 21.

How Persons for unlawful fishing, hunting in a Park, and taking of Hawks or Hawks' Eggs out of another's Ground, shall be punished.

WHERE as well as the Queen's Majesty and her most noble progenitors as also the noblemen gentlemen and divers other persons of great dominions lordships manors and possessions within this realm have of ancient and long time had and many of them now of late to their great costs and charges for the necessary and better provision and maintenance of their households have erected and made in and upon their several demaens grounds and possessions, as well pooles stagnes stewes motes pits or ponds for the only increase of fish, and have stored the same with pikerel breme tench carp and divers others good kinds of fish for the necessary increase of victuals and for the better maintenance and provision of their houses as is aforesaid, and also have imparked environed and enclosed many parcels of their said demaens soils grounds and possessions for the breeding cherishing and increase as well of red as fallow deer within their several parks and inclosures for the causes afore-declared, and also have breeding within their woods and grounds divers eyries of hawks of sundry kinds to their great pleasure and commodity: Yet nevertheless, the said several waters grounds parks and inclosures so being had erected and made, and also being so stored and replenished have been from time to time by evil-disposed persons of a very evil wilful and insolent disposition and of malice and displeasure not only by night-time broken and entered into but also the heads or dammes of the said ponds pools stagnes motes stewes or several waters have been maliciously wilfully and unlawfully cut out, and the pales fences and inclosures of the said parks and grounds broken cast down and set open, and the fish deer and hawks within the same taken destroyed carried away and stolen, not only to the great loss and damage of the owners thereof and to the small encouragement of other good subjects minding the careful provision of such necessary victuals, but also to the manifest emboldening of many like wilful malefactors and malicious offenders, whereby many riots manslaughters mischiefs and other inconveniences have been daily perpetrated, and are like to be committed and done, if circumspect remedy be not hereunto provided.

The Penalty for Destroying of any Pool, Pond, &c. or for the taking of any Fish.
31 H. 8. c. 2.

II. Be it therefore enacted by the Queen's Majesty the Lords Spiritual and Temporal and the Commons of this present Parliament assembled, and by the authority of the same, That if any person or persons after the Feast of Pentecost next coming shall at any time by day or by night unlawfully without authority break cut down cut out or destroy any head or heads dam or dams of any ponds pools motes stagnes stewes or several pits wherein fish are or shall happen to be put in or stored withal by the owners or possessioners thereof or do or shall wrongfully fish in any of the said several ponds pools motes stagnes stewes or pits to the

intent to destroy kill take or steal away any of the same fish against the will mind or pleasure of the owners or possessioners of the same not having any lawful title or authority so to do, and thereof be lawfully convicted at the suit of our Sovereign Lady the Queen her heirs or successors or the party grieved, shall suffer imprisonment of his or their bodies by the space of three months and shall yield and pay to the party grieved his treble damages; and after the said three months expired shall find sufficient sureties for his or their good abearing against the Queen our Sovereign Lady her heirs and successors and all her liege people for the space of seven years after; or else shall remain and continue still in prison without bail or mainprize, until such time as he or they so offending can and shall find sufficient sureties during the said time and space of seven years as is aforesaid.

No. IX.
5 Eliz. c. 21.

[III. The penalty for breaking of a park and hunting of deer. 3 Jac. I. c. 13. Co. Pl. 361.—The penalty for taking of hawks or hawks' eggs out of another's grounds.]

[IV. A park inclosed without licence of the Queen, &c.]

V. Provided always and be it enacted by the authority aforesaid, That it shall be lawful for the party grieved to sue and take his further remedy against all and every such offender and offenders for his loss and damages, and to recover the treble value of the same in this behalf as well before justices of oyer and determiner justices of assizes in their circuits and justices of the peace as elsewhere in any other the Queen's courts of record; and that upon the true satisfaction of the said treble damages to the party grieved or upon the confession and knowledge thereof by the same party before the said justices in open sessions to be holden within the county where the offence was committed, it shall be at the liberty of the same party grieved to whom the said offence was committed to release at his pleasure the said suretiship of good abearing at any time within the said seven years or before; any thing in this present Act before specified or expressed to the contrary notwithstanding.

The Remedy of the Party grieved, and before whom.

The Party grieved may release the Suretiship of good Abearing.

VI. And be it further enacted by the authority aforesaid, That the justices of oyer and determiner justices of assize in their circuits and justices of the peace and gaol delivery in their sessions shall by virtue hereof have power and authority to inquire hear and determine all and singular the offences aforesaid and to make and award process thereupon as well upon indictments taken before them as by bill of complaint information or any other action; in which suit or action no essuign wager of law nor protection shall be allowed.

What Justices may hear and determine the Offences aforesaid.

VII. And be it further enacted by the authority aforesaid, That if any person or persons at any time hereafter shall fortune to be bound before any of the justices before-mentioned to the Queen her heirs or successors for his or their good abearing for seven years according to the tenour of this Act, and the same party or parties so bound shall afterwards within the said seven years come before the justices of the peace of the said county where the said offence was committed or some of them in open sessions, and there in the said open sessions confess and acknowledge his or their said offence or offences and be sorry therefore and satisfy the party or parties grieved according to the tenour of this Act; that then the said justices before whom the confession shall be so made shall and may have power and authority by virtue of this Act in the same open session or in any other open session afterwards to be holden before the said justices in the said county within the said term of seven years, if it shall seem good to their discretions, to discharge the said recognisance and bond so taken and also the said party and parties so bound; this Act or any thing therein contained to the contrary notwithstanding.

In what Case the Justices of Peace may release the Offender of the good Abearing.
See 1 Jac. c. 27.
7 Jac. c. 13.
22 & 23 Car. 2. c. 25.
4 & 5 W. & M. c. 23.
5 Ann. c. 14.
9 Ann. c. 25.
3 Geo. 1. c. 11.
8 Geo. 1. c. 19.
10 Geo. 2. c. 32.
28 Geo. 2. c. 12.

No. X.

2 Jac. I.

c. 12.

3 Jas. I. c. 12.
13 Ed. I. c. 47.
The Forfeiture
for setting up
of a new Wear,
or for destroy-
ing the Spawn
or Fry of Fish.

Forfeiture for
Fishing with
certain Nets
and Engines.

What Sort of
Fish may be
taken with the
Nets prohibited.

[No. X.] 3 James I. c. 12. A. D. 1606.—An Act for the better Preservation of Sea Fish.

FORASMUCH as it is certainly known by daily experience that the brood of sea fish is spawned and lieth in still waters, where it may have rest to receive nourishment and grow to perfection, and that it is there destroyed by wears draw-nets and nets with canvas or like engines in the middle or bosom of them in harbours havens and creeks within this realm, to the great damage and hurt of fishermen and hindrance of the commonwealth, for that every wear near the main sea taketh in twelve hours sometimes the quantity of five bushels sometimes ten sometimes twenty or thirty bushels of the brood of sea fish; and also those which use draw-nets, nets with canvas or engines in the midst of them, do every day they fish destroy the brood of all the sorts of fish aforesaid in great multitudes:

II. For reformation whereof be it enacted by the authority of this present Parliament, That every person and persons that from and after the five-and-twentieth day of *July* next ensuing this session of Parliament, shall erect or set up any new wear or wears along the sea shore or in any haven harbour or creek or within five miles of the mouth of any haven or creek, or shall willingly take destroy or spoil any spawn fry or brood of any sea fish (1.) in any wear or other engine or device whatsoever, shall forfeit for every time so erecting setting up taking destroying or spoiling, contrary to this Act, the sum of ten pounds of good and lawful money of *England*, the one half to the King's Majesty his heirs or successors, and the other half to him that will sue for the same: and that every person which after the first day of *October* next ensuing this session of Parliament in any haven harbour creek or within five miles of the mouth of any haven harbour or creek of the sea, shall fish with any draw-net or drag-net under three inches meash, viz. one inch and an half from knot to knot except for the taking of smoulds in *Norfolk* only, or with any net with canvas or other engine or device, whereby the spawn fry or brood of sea fish may be destroyed, shall forfeit such net and also forfeit for every time so doing ten shillings of lawful money of *England*, the one half to the use of the poor people of the city town corporate borough market town parish or liberty where the offence or offences shall be committed, and the other half to the person that shall sue for the same; the said forfeitures to be levied to the uses aforesaid by the mayor bailiff or other head officer of every city borough or town corporate: and by warrant of one or more justices of peace it shall be lawful for the constables and churchwardens of every market town parish or liberty within which any such offence or offences shall be done, by way of distress and sale of the offender's goods, rendering to them the surplusage, according to the order of former statutes in such cases of forfeitures ordained.

III. Provided always, That this Act or any thing therein contained, shall not extend to punish any person or the persons for using any net or nets of lesser meash than is by statute appointed only for taking of herrings pilchards sprats or lavidnian; any thing in this Act to the contrary in any wise notwithstanding.

IV. Provided further, That this Act shall not extend to the isle and county of *Anglesey*.

(1) *V. Bridges v. Richardson*, 2 M. & S. 568.

[No. XI.] 22 & 23 Car II. c. 25. A. D. 1670.—An Act for the better Preservation of the Game, and for securing Warrens not inclosed, and the several Fishings of this Realm.

[Inserted post. title *Game*, p. 217.]

[No. XII.] 30 Car. II. c. 9. A. D. 1678.—An Act for Preservation of Fishing in the River of *Severn*.

No. XII.
30 Car. II.
c. 9.

[No. XIII.] 4 and 5 William and Mary, c. 23.—An Act for the more easy Discovery and Conviction of such as shall destroy the Game of this Kingdom.

[Inserted post. title *Game*.]

[No. XIV.] 10 and 11 William III. c. 24. A. D. 1690.—An Act for making *Billingsgate* a free Market for Sale of Fish.

[No. XV.] 4 Annæ, c. 21. A. D. 1705.—An Act for the Increase and better Preservation of Salmon and other Fish, in the Rivers within the Counties of *Southampton* and *Wilt.*

[No. XVI.] 9 Annæ, c. 26. A. D. 1710.—An Act for the better Preservation and Improvement of the Fishery within the River of *Thames*, and for regulating and governing the Company of Fishermen of the said River.

[No. XVII.] 1 George I. St. 2. c. 18. A. D. 1714.—An Act for the better preventing fresh Fish taken by Foreigners being imported into this Kingdom; and for the Preservation of the Fry of Fish; and for the giving Leave to import Lobsters and Turbets in Foreign Bottoms; and for the better Preservation of Salmon within several Rivers in that Part of this Kingdom called *England*.

IV. 'AND whereas of late years the breed and fry of sea fish has been greatly prejudiced and destroyed by the using of nets of too small size or mesh, and by other illegal and unwarrantable practices; Be it enacted by the authority aforesaid, That from and after the twenty-fifth day of *September* one thousand seven hundred and sixteen, if any person or persons shall use at sea upon the coast of that part of *Great Britain* called *England*, any trawl-net drag-net or set-net whatsoever for the catching of any kind of fish (except herrings pilchards sprats or lavidnian) which hath any mesh or moke of less size than three inches and an half at least from knot to knot, or which hath any false or double bottom cod or pouch, or shall put any net or nets though of legal size or mesh upon or behind the others in order to catch or destroy the small fish which would have passed through any single net of three inches and half mesh, all and every such person and persons so offending shall forfeit all and singular such net or nets so used contrary to the true intent and meaning hereof, and also for every such offence the sum of twenty pounds of lawful money of *Great Britain*, to be recovered and levied in such manner and form as the penalty above inflicted upon the master of any vessel wherein fish shall be imported contrary to this Act is above directed to be recovered and levied; and in default of payment of the said twenty pounds or of sufficient distress, the offender to be imprisoned in like manner during the space of twelve months.

1 Geo. I. c. 18.
Meshes of Nets
to be Three In-
ches and an
Half from Knot
to Knot.

Nor shall any
Net, though of
legal Size, be
put behind an-
other.

on Penalty of
Forfeiture
thereof and 20l.

No. XVII.

1 Geo. I.
st. 2. c. 18.

One Moiety to
the Informer,
the other to the
Poor.

Illegal Nets to
be burnt.

Penalty of sell-
ing unsize-
able Fish.
See 29 G. II.
c. 39.

V. And it is hereby further enacted, That all penalties and forfeitures mentioned in this Act, except nets of illegal or false bottoms cods or pouches as aforesaid (all necessary charges for the recovery thereof being first deducted) shall be distributed and disposed of in manner following (that is to say) one moiety thereof to the informer, and the other moiety thereof to the poor of the parish where such offence shall be committed.

VI. And it is hereby further enacted and provided, That where any illegal nets of less mesh or moke than three inches and half at least from knot to knot or of false or double bottom cod or pouch shall be proved as aforesaid to have been forfeited, such net or nets shall by warrant of such justice or justices be publicly burnt.

VII. 'And for the further preservation of the said fry of fish,' be it enacted by the authority aforesaid, That if any person or persons shall at any time after the twenty-ninth day of *September* one thousand seven hundred and fifteen bring to shore in that part of *Great Britain* called *England*, sell offer or expose to sale or shall exchange for any other goods matter or thing any unsizeable fish, that is to say, bret turbet brill or pearl codlin whiting mullet bass plaice soles or flounders, which shall not be of the several lengths or sizes following, from the eyes to the utmost extent of the tail (*viz.*) every bret or turbet sixteen inches; every brill or pearl fourteen inches; every codlin twelve inches; every whiting six inches; every bass and mullet twelve inches; every sole eight inches; every plaice or dab eight inches; and every flounder seven inches; all and every person and persons so offending shall for every such offence forfeit all and every such unsizeable fish so brought on shore sold-offered or exposed to sale or exchanged as aforesaid to the poor of the parish or place where such offence shall be committed, and also shall for every such offence forfeit and pay the sum of twenty shillings of lawful money of *Great Britain*, one moiety thereof to the informer and the other moiety thereof to the poor of the parish or place where the offence shall be committed, and to be levied and recovered as other penalties by this Act inflicted are directed to be levied and recovered; and in default of payment of the said forfeiture or of sufficient distress for satisfaction thereof, the offender shall by warrant of one or more justice or justices of the peace be sent to the next house or houses of correction or other common gaol or prison of any county city town or place where such offence shall be committed, there to be severely whipped and kept to hard labour for the space of six days and not longer than fourteen days.

VIII. Provided always, That where any person shall suffer imprisonment pursuant to this Act for any offence contrary hereunto in default of payment of or sufficient distress for any penalty hereby imposed, such person shall not be liable afterwards to pay such penalty.

IX. Provided always, That no person shall suffer any punishment for any offence committed against this Act, unless the prosecution for the same be commenced within one month after such offence committed; any thing herein contained to the contrary notwithstanding.

XIV. 'And whereas the several Acts of Parliament heretofore made for the preservation of fishing within the rivers of this realm have hitherto proved ineffectual in respect to the rivers Severn Dee Wye Teame Were Tees Ribble Mersey Dun Air Ouze Swale Calder Wharf Eure Darwent and Trent, for want of a due encouragement to be given to such persons who would discover the many illegal practices and abuses done therein, and by reason of the dilatoriness and expensiveness of the suits and proceedings directed by the said Acts for punishing such abuses;' wherefore for remedy thereof and for the better securing the spawn fry and young breed of salmon in the said rivers, Be it further enacted by the authority aforesaid, That if any person or persons whatsoever shall at any time hereafter lay or draw any kind of nets engines or devices, or wilfully do or commit or cause to be done or committed any other act whatsoever in the said rivers or in any of them, whereby the spawn or small fry of salmon therein or any kepper or shedder salmon or any salmon not being in length eighteen inches or more from the eye to the extent of the middle of the tail shall be taken and killed

Destroying the
Fry of Salmon
in the Rivers
Severn, Dee,
&c.

or destroyed, or shall hereafter make erect or set any bank dam hedge or stank net or nets cross the said rivers or any part thereof, whereby the salmon therein may be taken or hindered from passing or going up the said rivers to spawn, or shall at any time hereafter between the last day of July and the twelfth day of November for ever, by or with any net device engine ways or means whatsoever, take kill destroy or wilfully hurt any salmon of any kind or size whatsoever, in the said rivers, or shall at any time after the said twelfth day of November fish there for salmon with any other net or nets than what is or are allowed of by an Act of Parliament made in the first year of the reign of Queen Elizabeth, intituled 'An Act for the Preservation of Spawn and Fry of Fish;' and by another Act made in the thirtieth year of the reign of our late Sovereign Lord King Charles the Second, intituled 'An Act for the Preservation of Fishing in the River Severn;' every person so offending in any of the said cases who shall be convicted thereof before any justice or justices of the peace for the county wherein the said offence shall be committed, either upon view of such justice or justices by confession of such offender or by one or more credible witness or witnesses upon oath (which oath every such justice of peace is hereby empowered to administer) shall forfeit the sum of five pounds for every such offence, besides the fish so taken and the nets engines and devices used in doing or committing the same; one moiety of the said sum to be paid to the informer or informers and the other moiety thereof to the poor of the parish where the said offence shall be committed; to be levied by distress and sale of the offender's goods and chattels by warrant under the hand and seal of the justice or justices of the peace before whom he shall be convicted as aforesaid, rendering the overplus if any be over and above the charges of the distress to the person so distrained; and for want of such distress the offender shall be committed to the house of correction or other county gaol or prison for any time not exceeding three months nor less than one month, there to be kept to hard labour and suffer such other corporal punishment as the said justice or justices upon consideration of the circumstances of such offence shall think fit; and the said justice or justices of the peace before whom the person so offending shall be convicted shall order such nets engines and devices made use of in taking such fish to be seized and immediately cut in pieces or otherwise destroyed in his or their presence, and shall also cause such banks dams hedges or stanks made or erected across the said river to be demolished and removed at the charges of such offender, such charges if not paid down on conviction to be levied in the same manner as the said sum of five pounds is appointed to be levied. (*Altered by 23 Geo. 2. c. 26. s. 7.*)

XV. 'And whereas several fishmongers of London and other cities and towns by themselves or their agents frequently buy and contract with the fishermen using the said rivers of Severn Dee Wye Teame Were Tees Ribble Mersey Dun Air Ouse Swaile Calder Wharf Eure Darwent and Trent or others employed by them for great quantities of salmon to be taken in the said rivers, which gives great encouragement to the taking salmon there of unsizeable lengths and at unseasonable times; Be it therefore further enacted, That no such salmon shall be sent to London to such fishmongers or their agents that shall weigh less than six pounds each fish; and every person buying selling or sending any such salmon of less weight than six pounds who shall be convicted thereof in manner as aforesaid shall forfeit the sum of five pounds for every such offence besides the fish so to be bought and sold; one moiety of the said sum and fish to be paid and distributed to the informer or informers and the other moiety thereof to the poor of the parish where such offence shall be committed: the said sum if not paid upon conviction to be levied by distress and sale of the offender's goods and chattels by warrant under the hand and seal of the justice or justices of peace before whom he shall be convicted as aforesaid, rendering the overplus if any be over and above the charges of such distress to the owner; and in default of sufficient distress, the offender shall be committed by such justice or

No. XVII.

1 Geo. I.
st. 2. c. 18.

and taking Salmon in the said Rivers between the last of July and November 12, with any other Net, &c. than are allowed by 1 Eliz. c. 17. and 30 Car. 2. s. 1. c. 9. the Offender shall forfeit 5l. besides the Fish and Nets, to be levied by Distress;

and for Want thereof be committed to the House of Correction, &c. and Nets, &c. to be destroyed,

and Banks, &c. removed at the Charges of the Offender.

Sending to London from the said Rivers, or buying, &c. any Salmon less than Six Pounds weight each, forfeits 5l.

to be levied by Distress, and for Want, to be committed for Three Months.

No. XVII.

1 Geo. I.

st. 2. c. 18.

Offenders pun-
ished by this Act,

Appeal.

justices to the house of correction or other county gaol or prison, there to be kept to hard labour for the space of three months, unless the said forfeiture shall be in the mean time paid.

XVI. Provided, That where any offender in the said rivers or in any of them shall be punished by force of this Act, he shall not be prosecuted nor incur the penalty of any other law or statute for the same offence.

shall not incur the Penalty of any other Law.

XVII. Provided also and it is hereby enacted, That all persons who shall think themselves aggrieved by any judgment of any justice or justices of the peace in any of the cases aforesaid may appeal to the justices of the peace of the county city or place where such judgment shall be given at their next general quarter sessions, who are hereby empowered to hear and finally determine the same.

The Owners of
ancient Weirs
and Locks may
repair them, &c.

XVIII. Provided, That this Act or any thing herein contained shall not extend or be construed to extend to any ancient weirs or locks upon any rivers; but that it shall and may be lawful for the proprietors or owners thereof to repair maintain rebuild remove or take down any of the said weirs or locks, as they might have done in case this Act had not been made. (Continued by 23 Geo. 2. c. 26.)

[No. XVIII.] 9 Geo. II. c. 33.—An Act to render the Law more effectual for preventing the Importation of fresh Fish taken by Foreigners, and to explain so much of an Act made in the Thirteenth and Fourteenth Years of the Reign of King *Charles* the Second, as relates to Ships exporting Fish to the Ports of the Mediterranean Sea, and for the better Preservation of the Fry of Lobsters on the Coasts of *Scotland*.

[No. XIX.] 22 Geo. II. c. 49.—An Act for making a free Market for the Sale of Fish in the City of *Westminster*; and for preventing the Forestalling and Monopolizing of Fish; and for allowing the Sale of Fish under the Dimensions mentioned in a Clause contained in an Act of the First Year of his late Majesty's Reign, in case the same are taken with a Hook.

[No. XX.] 23 Geo. II. c. 26. s. 7. A. D. 1750.—An Act to amend so much of an Act made in the First Year of the Reign of King *George* the First, as relates to the better Preservation of Salmon in the River *Ribble*.

[No. XXI.] 29 Geo. II. c. 39. A. D. 1756.—An Act for explaining amending and rendering more effectual an Act made in the Twenty-second Year of his present Majesty's Reign, intituled 'An Act for making a free Market for the Sale of Fish in the City of *Westminster*; and for preventing the Forestalling and Monopolizing of Fish; and for allowing the Sale of Fish under the Dimensions mentioned in a Clause contained in an Act of the First Year of his late Majesty's Reign, in case the same are taken with a Hook.

- [No. XXII.] 30 Geo. II. c. 21. A. D. 1757.—An Act for the more effectual Preservation and Improvement of the Spawn and Fry of Fish in the River of *Thames* and Waters of *Medway*; and for the better regulating the Fishery thereof. No. XXII. 30 Geo. II. c. 21.

- [No. XXIII.] 33 Geo. II. c. 27. A. D. 1759.—An Act to repeal so much of an Act passed in the Twenty-ninth Year of his present Majesty's Reign, concerning a free Market for Fish at *Westminster*, as requires Fishermen to enter their Fishing-vessels at the Office of the Searcher of the Customs at *Gravesend*; and to regulate the Sale of Fish at the first hand in the Fish-markets in *London* and *Westminster*; and to prevent Salesmen of Fish buying Fish to sell again on their own Account; and to allow Bret and Turbot, Brill and Pearl, although under the respective Dimensions mentioned in a former Act, to be imported and sold; and to punish Persons who shall take or sell any Spawn, Brood, or Fry of Fish, unsizeable Fish, or Fish out of Season, or Smelts under the Size of Five Inches; and for other Purposes.

- [No. XXIV.] 2 Geo. III. c. 15. A. D. 1761.—An Act for the better supplying the Cities of *London* and *Westminster* with Fish, and to reduce the present exorbitant Price thereof; and to protect and encourage Fishermen.

- [No. XXV.] 5 Geo. III. c. 14. A. D. 1765.—An Act for the more effectual Preservation of Fish in Fishponds and other Waters; and Conies in Warrens; and for preventing the Damage done to Sea Banks, within the County of *Lincoln*, by the breeding Conies therein.

‘ WHEREAS the several laws in being for the preservation of the fish in rivers ponds pools moats stews and other waters are by experience found to be ineffectual to deter divers loose idle and disorderly persons from stealing taking away or destroying the fish therein bred and preserved; May it therefore please your most excellent Majesty that it may be enacted; and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That in case any person or persons from and after the first day of June one thousand seven hundred and sixty-five shall enter into any park or paddock fenced in and inclosed or into any garden orchard or yard adjoining or belonging to any dwelling-house, in or through which park or paddock garden orchard or yard any river or stream of water shall run or be or wherein shall be any river stream pond pool moat stew or other water, and by any ways means or device whatsoever shall steal take kill or destroy any fish bred kept or preserved in any such river or stream pond pool moat stew or other water aforesaid without the consent of the owner or owners thereof; or shall be aiding or assisting in the stealing taking killing or destroying any such fish as

5-Geo. III.
c. 14.

Persons convicted of stealing or destroying Fish, &c. are to be transported for Seven Years.

No. XXV.

5-Geo. III.

c. 14.

aforesaid; or shall receive or buy any such fish, knowing the same to be so stolen or taken as aforesaid; and being thereof indicted within six calendar months next after such offence or offences have been committed, before any judge or justices of gaol delivery for the county wherein such park or paddock garden orchard or yard shall be, and shall on such indictment be by verdict or his or their own confession or confessions convicted of any such offence or offences as aforesaid; the person or persons so convicted shall be transported for seven years.

II. 'And for the more easy and speedy apprehending and convicting of such person or persons as shall be guilty of any of the offences before mentioned,' Be it further enacted by the authority aforesaid, That in case any person or persons shall at any time after the said first day of June commit or be guilty of any such offence or offences as are hereinbefore mentioned and shall surrender himself to any one of his Majesty's justices of the peace in and for the county where such offence or offences shall have been committed; or being apprehended and taken or in custody for such offence or offences or on any other account and shall voluntarily make a full confession thereof and a true discovery upon oath of the person or persons who was or were his accomplice or accomplices in any of the said offences, so as such accomplice or accomplices may be apprehended and taken, and shall on the trial of such accomplice or accomplices give such evidence of such offence or offences as shall be sufficient to convict such accomplice or accomplices thereof, such person making such confession and discovery and giving such evidence as aforesaid, shall by virtue of this Act be pardoned acquitted and discharged of and from the offence or offences so by him confessed as aforesaid.

III. And be it further enacted by the authority aforesaid, That in case any person or persons shall after the said first day of June take kill or destroy or attempt to take kill or destroy any fish in any river or stream (1.) pond pool or other water (2.) (not being in any park or paddock, or in any garden orchard or yard adjoining or belonging to any dwelling-house, but shall be in any other inclosed ground which shall be private property) every such person being lawfully convicted thereof by the oath of one or more credible witness or witnesses, shall forfeit and pay for every such offence the sum of five pounds to the owner or owners of the fishery of such river or stream of water, or of such pond pool moat or other water; and it shall and may be lawful to and for any one or more of his Majesty's justices of the peace of the county division riding or place where such last-mentioned offence or offences shall be committed, upon complaint made to him or them upon oath against any person or persons for any such last-mentioned offence or offences, to issue his or their warrant or warrants to bring the person or persons so complained of before him or them; and if the person or persons so complained of shall be convicted of any of the said offences last-mentioned before such justice

Any Offender
convicting his
Accomplices en-
titled to Pardon.

Persons con-
victed of taking
or destroying,
&c.

Forfeit to the
Owner of the
Fishery 54. See
Dough. 469.

(1.) A stream of water running by the side of a piece of ground, which is inclosed on every side, except that on which it is bounded by the water, is not a stream in inclosed ground within the meaning of this Section, so as to subject a person fishing therein to the penalty inflicted by the Act. *Lisle v. Brown*; 1 Marsh, 127. S. C. 5 Taunt. 440. For the form of a Conviction on this Statute, see *Rex v. Edwards*, 1 E. R. 278; *Rex v. Daman*, 2 B. & A. 378.

(2.) Conviction quashed because the Complaint did not appear to be made by the Owner, or the fishing to be without his consent. *Rex v. Corden*. 4 Bur. 2279. In *Rex v. Edwards*, 1 East. 278. a Conviction for fishing in part of a River between A. in the County of W. and B. in the said County, was quashed for not showing that the place where the offence was committed was within the jurisdiction of the Magistrate. It was ob-

jected that the Conviction for fishing without the consent was not sufficient without saying "against the Consent," and that the want of consent could only be proved by the Owner himself. No opinion was given on these objections; and see *Observations*, 1 Chitty, 322.

In a Conviction founded upon this Section, it must be distinctly stated in the Information and in the Evidence that the proceeding was at the instance of the Owner of the Fishery; and, therefore, where it was merely stated in the memorandum of a Conviction that the proceeding was at the instance of such Owner, and where the Information, without containing any such allegation, concluded with a mere prayer of Judgment on behalf of such Owner, and the Evidence was wholly silent on the subject, the Conviction was held to be bad. *Rex v. Daman*, 2 B. and A. 378.

or justices, or any other of his Majesty's justices of the same county division riding or place aforesaid, by the oath or oaths of one or more credible witness or witnesses, which oath such justice or justices are hereby authorised to administer, or by his or their own confession, then and in such case the party so convicted shall immediately after such conviction pay the said penalty of five pounds hereby before imposed for the offence or offences aforesaid, to such justice or justices before whom he shall be so convicted, for the use of such person or persons as the same is hereby appointed to be forfeited and paid unto; and in default thereof shall be committed by such justice or justices to the house of correction for any time not exceeding six months, unless the money forfeited shall be sooner paid.

IV. Provided nevertheless, That it shall and may be lawful to and for such owner or owners of the fishery of such river or stream of water, or of such pond pool or other water wherein any such offence or offences last mentioned shall be committed as aforesaid, to sue and prosecute for and to recover the said sum of five pounds by action of debt bill plaint or information in any of his Majesty's courts of record at *Westminster*; and in such action or suit no essoign wager of law or more than one imparlance shall be allowed; provided that such action or suit be brought or commenced within six calendar months next after such offence or offences shall have been committed.

V. Provided always and be it further enacted by the authority aforesaid, That nothing in this Act shall extend or be construed to extend to subject or make liable any person or persons to the penalties of this Act, who shall fish take or kill and carry away any fish in any river or stream of water pond pool or other water wherein such person or persons shall have a just right or claim to take kill or carry away any such fish. (3.)

(3.) A fishing in order to try Claim of Right is not within the Statute, although a Verdict had been obtained on a former Action against the

Right of the Person under whom the Claim was made. *Keineraley v. Orpe*, Doug. 517.

[No. XXVI.] 11 George III. c. 27. A.D. 1771.—An Act for Regulating and Improving the Fisheries in the River *Tweed*, and the Rivers and Streams running into the same; and also within the Mouth or Entrance of the said River.

[No. XXVII.] 15 George III. c. 46. A.D. 1775.—An Act for amending and rendering more effectual an Act passed in the Eleventh Year of his present Majesty's Reign, intituled, 'An Act for regulating and improving the Fisheries in the River *Tweed*, and the Rivers and Streams running into the same, and also within the Mouth or Entrance of the said River.'

[No. XXVIII.] 18 George III. c. 33. A.D. 1777.—An Act for the better Preservation of Fish, and regulating the Fisheries, in the Rivers *Severn* and *Verniew*.

[No. XXIX.] 31 George III. c. 51. A.D. 1791.—An Act for better protecting the several Oyster Fisheries within this Kingdom.

‘WHEREAS the maintaining and preserving the several Oyster Fisheries of this kingdom is a great national object: And whereas

No. XXV,
5 Geo. III.
c. 14.

31 Geo. III.
c. 51.
Preamble.

No. XXIX.

31 Geo. III.
c. 51.

From Aug 1,
1791, Persons
unlawfully
catching
Oysters or
Brood within
the Limits of
any Fishery,
punishable by
Fine and Imprisonment.

' the laws now in being are not sufficient effectually to maintain and preserve the said Fisheries and to prevent the destroying of the Oyster Brood therein : In order therefore the better to protect the said Fisheries, and to prevent the destroying of the Oyster Brood within the same, May it please your Majesty, that it may be enacted, and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That if any person or persons shall at any time from and after the first day of August one thousand seven hundred and ninety-one; with or by means of any net trawl dredge or other instrument or engine whatsoever, take or catch any oysters or oyster brood within the limits of any oyster fishery of this kingdom, or shall dredge for oysters or oyster brood or use any oyster dredge or any net instrument or engine whatsoever within the limits of any such fishery for the purpose of taking or catching oysters or oyster brood, although no oysters or oyster brood shall be actually taken, or shall with any net instrument or engine drag upon the ground or soil of any such fishery, all and every such person and persons (other than and except such persons as shall be the owners lessees or occupiers of such fishery, or shall be otherwise lawfully entitled to take or catch oysters therein) shall be deemed and taken to be guilty of an offence and misdemeanor, and shall and may be prosecuted for the same by indictment at the assizes or general quarter sessions of the peace to be holden in and for the county riding or division in which such fishery shall lie, and the justices in sessions are hereby authorised and required to hear and determine all and every such offence and offences; and such person or persons being lawfully convicted by verdict or by his or their own confession, shall and may be punished for any of the said offences by fine and imprisonment or either of them as the court before whom such person or persons shall be so convicted shall think proper, such fine not to exceed twenty pounds or be less than forty shillings, and such imprisonment not to be for more than three months or less than one month.

Act not to extend to the taking floating Fish.

II. Provided always, That nothing in this Act shall extend or be construed to extend to prevent or hinder any person or persons whomsoever from taking catching or fishing for any floating fish in the waters or creeks within the limits of any oyster fishery, with any net instrument or engine which shall be made or fitted for the purpose of taking or catching floating fish-only.

Justices may issue Warrants for apprehending Offenders, and, for want of Sureties, may commit them till the Quarter Sessions.

III. And be it further enacted, That it shall be lawful for any justice of the peace acting for any county riding or division wherein any offence shall be committed contrary to this Act, upon complaint and oath made before him (which oath he is hereby empowered to administer) that any person or persons except as aforesaid hath or have within thirty days next preceding such complaint, taken or caught any oysters or oyster brood within the limits of any oyster fishery, or dredged for oysters or oyster brood, or used any oyster dredge or any net instrument or engine within the limits of any such fishery for the purpose of taking or catching oysters or oyster brood, although no oysters or oyster brood shall be actually taken; or with any net instrument or engine dragged upon the ground or soil of any oyster fishery, to issue out a warrant or warrants under his hand and seal for the apprehending of the person or persons so offending, and for bringing him or them before himself or any other justice of the peace acting for such county riding or division; and the justice before whom such person or persons shall be brought shall and is hereby authorised and required if he see cause to commit him or them to the common gaol or other usual place of confinement for prisoners in and for such county riding or division, there to remain until the then next assizes or then next general quarter sessions of the peace to be holden in and for such county riding or division, whichever shall first happen next after such person or persons shall be so apprehended and brought before such justice, unless such person or persons shall enter into recognisance before such justice with two good and sufficient sureties (each and every of them in the penalty of twenty pounds) to appear either at the said next assizes

or general quarter sessions of the peace which shall first happen as aforesaid, then and there to answer any indictment or indictments that shall or may be preferred against him or them under or by virtue of this Act.

IV. And be it further enacted, That if any person or persons except as aforesaid shall be found actually taking or catching any oysters or oyster brood within the limits of any oyster fishery, or dredging for oysters or oyster brood, or using any oyster dredge or any net instrument or engine whatsoever within the limits of any oyster fishery, for the purpose of taking or catching oysters or oyster brood, although no oysters or oyster brood shall be actually taken, or with any net instrument or engine dragging upon the ground or soil of any such oyster fishery, it shall be lawful for any person being an owner lessee or occupier of such fishery, or otherwise lawfully entitled to take or catch oysters therein, and for his apprentice or servant (in case the person or persons offending against this Act shall on being required so to do refuse to discover his or their real name or names and the true place or places of his or their abode or residence respectively) to seize secure and detain every such person so being found actually taking or catching any oysters or oyster brood, or dredging for oysters, or using any oyster dredge or any net instrument or engine for the purpose aforesaid, although no oysters or oyster brood shall have been actually taken, or with any net instrument or engine dragging upon the ground or soil of such oyster fishery, and refusing to discover his real name and true place of abode, and forthwith to carry him and them before any justice of the peace acting for such county riding or division; and the said justice on oath being made before him (which oath he is hereby empowered to administer (of the offence against this Act, for which such person or persons was or were seized or secured and detained, shall and is hereby authorised and required to proceed against him and them in such and the same manner as if he or they had been apprehended and brought before such justice by virtue of a warrant or warrants issued for that purpose under the authority of this Act.

V. Provided always, and be it further enacted, That no justice of the peace shall by virtue of this Act commit any person or persons or take or require any security from him or them for his or their appearance as aforesaid, unless one good and sufficient householder being an owner lessee or occupier of or otherwise lawfully entitled to take or catch oysters in the oyster fishery wherein the offence shall be sworn to have been committed (whose oath that he is such owner lessee or occupier or otherwise lawfully entitled as aforesaid shall be sufficient evidence thereof to such justice), shall enter into recognisance before the said justice in the penalty of twenty pounds for his appearing either at the then next assizes or general quarter sessions of the peace for the county riding or division, as the case may be, and then and there preferring and prosecuting with effect a bill of indictment against the person or persons so to be committed or bound by recognisance for the offence or offences for which he or they shall be so committed or bound as aforesaid.

VI. And be it further enacted, That if at any time after any person or persons shall have been committed in pursuance of this Act two good and sufficient sureties shall before the justice by whom such person or persons was or were committed, or any other justice of the peace for the same county riding or division, enter into recognisance in the penalty of twenty pounds each, with condition for the appearance of such person or persons so committed at the then next assizes or general quarter sessions of the peace for the same county riding or division which shall first happen, then and there to answer to any indictment or indictments that shall or may be preferred against him or them by virtue of this Act; then and in such case it shall be lawful for any such justice by warrant under his hand and seal to order such person or persons to be discharged from his or their said commitment and delivered out of custody, and he and they shall be discharged accordingly; any thing herein contained to the contrary thereof in anywise notwithstanding.

No. XXIX.
31 Geo. III.
c. 51.

Persons found taking or using Engines for taking Oysters of Brood, refusing to discover themselves, may be seized, &c.

No Justice to commit, or require Security from any Persons, without Recognizance is entered into to prosecute.

Persons may be discharged from Confinement upon Recognizance.

No. XXIX.
31 Geo. III.
c. 51.

This Act not to
affect any Act
now in force
respecting any
particular Oyster Fishery,

or to preclude
Prosecution at
the Common
Law.

Limitation of
Actions.

General Issue.

Double Costs.
Public Act.

VII. Provided always, That nothing herein contained shall extend or be construed to extend to repeal alter abridge or affect any Act of Parliament now in force respecting any particular oyster fishery within this kingdom, or any clause regulation method of proceeding power matter or thing therein; but that all and every the powers authorities jurisdictions and directions contained in all such Acts of Parliament shall and may be pursued enforced exercised and executed in such manner and form and as fully to all intents and purposes as if this Act had not been made.

made.

VIII. Provided also, That nothing herein contained shall extend or be construed to extend to prevent bar or preclude any person from commencing any prosecution or action at the common law for any Act or offence herein-before described, which shall be done or committed within the limits of any oyster fishery, in such manner and form as if this Act had not been made; but nevertheless when any person shall have been punished in pursuance and by virtue of this Act for any offence against the same, such person shall not be prosecuted by virtue of any other law or statute or be liable to any other punishment or penalty for the same offence, or to have any other action or suit in law or equity brought against him on account of that offence for which he shall have been punished in pursuance of this Act.

IX. And be it further enacted, That no action at law shall be brought or commenced against any person or persons for any arrest authorised to be made, or any other matter or thing done or to be done by virtue of this Act, until after twenty-one [days] notice thereof in writing shall have been given to the person or persons against whom such action is intended to be brought or left at his or their last usual place or places of abode, setting forth the cause of such action; and that every such action shall be brought within the space of six calendar months next after the cause of complaint shall arise, and shall be laid and tried in the proper county wherein the same did arise, and not elsewhere; and the defendant or defendants in such action may plead the general issue, and on the trial thereof give this Act and the special matter in evidence; and if on the trial of such action it shall appear that the same was commenced without having given such notice, or before the expiration of twenty-one days next after such notice shall have been so given or left as aforesaid, or after the end of six calendar months next after the cause thereof shall have arisen, or if such action shall be brought or laid in any other county than as aforesaid, or after sufficient tender of amends shall have been made to the party or parties aggrieved, that then and in any of the cases aforesaid a verdict shall be entered as found for the defendant or defendants; and in all cases where a verdict shall be found or entered for the defendant or defendants in any such action, or if the plaintiff or plaintiffs shall discontinue the same after appearance or shall be nonsuited, or if upon demurrer judgment shall be given against the plaintiff or plaintiffs the defendant or defendants in such action shall have double costs, and the like remedies for recovering the same as defendants have by law for recovering their costs in other cases.

X. And be it further enacted, That this Act shall be deemed and taken to be a public Act; and shall be judicially taken notice of as such by all judges justices and other persons without specially pleading the same.

[No. XXX.] 36 Geo. III. c. 118. A.D. 1796.—An Act to authorize the Sale of Fish at *Billingsgate* by Retail.

[No. XXXI.] 37 George III. c. 48. A.D. 1797.—An Act for altering, amending, and rendering more effec-

tual two Acts, made in the Eleventh and Fifteenth Years of the Reign of his present Majesty, for the Regulation and Improvement of the Fisheries in the River *Tweed*, and the Rivers and Streams running into the same, and also within the Mouth or Entrance of the said River.

No. XXXI.
37 Geo. III.
c. 48.

[No. XXXII.] 37 Geo. III. c. 95.—An Act to amend two Acts, made in the Fourth Year of the Reign of Queen *Anne*, and the First Year of the Reign of King *George* the First, for the Preservation of Salmon and other Fish, in the Rivers within the Counties of *Southampton* and *Wilts*.

[No. XXXIII.] 42 George III. c. 88.—An Act for repealing so much of an Act made in the Second Year of the Reign of his present Majesty, intituled, ‘An Act for the better supplying the Cities of *London* and *Westminster* with Fish, and to reduce the present exorbitant Price thereof, and to protect and encourage Fishermen,’ as limits the Number of Fish to be sold by Wholesale within the said City of *London*; and for the better Regulation of the Sale of Fish by Wholesale in the Market of *Billingsgate* within the said City.

[No. XXXIV.] 43 Geo. III. c. 61.—An Act to alter and amend two Acts, passed in the Thirteenth Year of the Reign of King *Edward* the First, and in the Thirteenth Year of the Reign of King *Richard* the Second, for the Preservation of Salmon and other Fish in the Rivers *Teign*, *Dart* and *Plym*, in the County of *Devon*.

[No. XXXV.] 45 Geo. III. c. 33.—An Act for the Preservation of Salmon and other Fish in the Rivers in the County of *Carmarthen*, and County of the Borough of *Carmarthen*.

[No. XXXVI.] 46 Geo. III. c. 19. A. D. 1806.—An Act for the Regulation of the Oyster, Sole, and Salmon Fisheries, within the Harbour of *Milford*, in the County of *Pembroke*, and the Rivers running into the said Harbour.

[No. XXXVII.] 47 Geo. III. Sess. 1. c. 29. A. D. 1807.—An Act to amend and render more effectual three Acts, made in the Eleventh, Fifteenth and Thirty-seventh Years of his present Majesty, for the Regulation and Improvement of the Fisheries of the River *Tweed*.

No.
XXXVIII.

48 Geo. III.

c. 144.

48 George III.
c. 144.

31 Geo. 3. c. 51.

Penalty on Per-
sons stealing
Oysters or
Oyster Brood
from Oyster
Beds, Felony,
punishable by
Transportation,
&c.

Proviso for Per-
sons claiming
Right.

Parish need not
be named in In-
dictments, and
Offence may be
laid in the
County where
Indictment is
preferred.

Justices for
Towns, &c.
may act as Jus-
tices for Coun-
ties.

Provisions of
31 Geo. 3. c. 51.
not repealed by
this Act.

[No. XXXVIII.] 48 Geo. III. c. 144. A. D. 1808.—An Act for the more effectual Protection of Oyster Fisheries and the Brood of Oysters in *England*.

‘ WHEREAS an Act of Parliament passed in the thirty-first year of the reign of his present Majesty, intituled “ An Act for better protecting the several oyster fisheries within this Kingdom:” and whereas the provisions of the said Act have been found inadequate to the protection of the oyster fisheries of this kingdom: and whereas doubts have arisen since the passing of the said Act whether the taking of oysters or oyster brood from any oyster bed or laying or from any oyster fishery can under any circumstances be deemed felony and punishable as such: and it is therefore expedient and necessary that more effectual provision should be made for the protection of the oyster fisheries and for removing such doubts as aforesaid: May it therefore please your Majesty that it may be declared and enacted; and be it declared and enacted by the King’s most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That every person who shall at any time after the first day of August one thousand eight hundred and eight knowingly and wilfully steal take and carry away any oysters or oyster brood from any oyster bed or oyster laying or oyster fishery, being the property of any person or persons or body or bodies politick or corporate and sufficiently marked out as such, shall be deemed guilty of felony and shall and may be transported for any term not exceeding seven years, or be imprisoned and kept to hard labour in any common gaol or house of correction or penitentiary house, or imprisoned only for any term not exceeding three years, as the court before whom any such person shall be convicted may adjudge. .

II. Provided always and be it further enacted, That nothing in this Act contained shall extend or be construed to extend to subject or make liable any person or persons to the penalties of this Act who shall take or carry away any oyster or oyster brood from any oyster bed oyster laying or oyster fishery wherein such person or persons shall have or claim to have a right to take and carry away such oysters or oyster brood.

III. ‘ And whereas doubts may arise in what parish or county any oyster beds layings or fisheries are situated, and on that account difficulties may occur in bringing offenders to justice;’ Be it therefore further enacted, That it shall be sufficient in any indictment under this Act, or under the said recited Act of the thirty-first year aforesaid, to describe either by name or otherwise the bed laying fishery in which the offence shall have been committed, without stating the same to be in any particular parish; and where the offence is committed on the border of any county so as to make it difficult to ascertain the county, such offence may be stated to have been committed in the county in which the indictment shall be preferred, being either the county in which the offence was committed or the adjoining county.

IV. ‘ And whereas it is doubtful whether justices of the peace for towns corporate boroughs or other places and not being counties of themselves and having special or exclusive jurisdictions, can act by virtue of the statute of the thirty-first year aforesaid;’ Be it therefore enacted and declared, That it shall be lawful for such justices to act in all cases arising within their respective jurisdictions in like manner as any justice of the peace for any county riding or division may act for such county riding or division in the execution of the said Act or of any law for protecting the oyster fisheries and broods of oysters.

V. And be it further enacted, That nothing herein contained shall extend or be construed to extend to repeal any of the provisions of the said Act of the thirty-first year aforesaid, except so far as the same respect the stealing and taking of oysters from any oyster bed laying or fishery.

[XXXIX.] 58 Geo. III. c. 43.—An Act for preventing the Destruction of the Breed of Salmon, and Fish of Salmon Kind, in the Rivers of England.—[28th May 1818.]

No.
XXXIX.
58 Geo. III.
c. 43.

58 Geo. 3. c. 43.

Justices at Sessions to appoint Conservators of Rivers;

and to fix Periods in which Salmon shall not be taken, &c.

Penalty on Persons destroying Salmon, or the Brood, Spawn, or Fry thereof.

WHEREAS provision has been made in various Acts of Parliament for preventing the destruction of salmon and other fish of the salmon kind in the several rivers in *England* named therein, and in estuaries and arms of the sea near the mouths of the said rivers; and it would be of great public advantage if such protection should be afforded generally in all rivers throughout *England*: Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That from and after the passing of this Act it shall be lawful for the justices of the peace assembled at any general or quarter sessions of the peace, from time to time to appoint conservators or overseers for the preservation of the salmon and fish of the salmon kind and the brood spawn and fry thereof and preventing the destruction thereof, and enforcing for that purpose the provisions of this Act within the limits of the jurisdiction of such justices and within the limits of which they shall be so appointed.

II. And be it further enacted, That were no provision is made by any Act now in force for limiting the times within which it shall be lawful to take salmon or fish of the salmon kind in any of the rivers in *England*, it shall be lawful for the justices of the peace acting for the several counties at their several quarter sessions of the peace, and they are hereby required at the request of any person, such person having first given notice in some newspaper usually circulated within the county, of his intention to apply to the said quarter sessions in that behalf to fix certain days, not exceeding one hundred and fifty days in each year for each river within their respective counties, to be fence days for the several rivers respectively; during which time it shall not be lawful for any person or persons whatever to take kill or destroy or attempt to take kill or destroy any salmon or salmon trout or fish of the salmon kind, or any brood spawn or fry of such fish; and the said justices are hereby further empowered at any general quarter sessions to vary annually the number of such days and the periods at which they shall commence as they shall think fit.

III. And be it enacted, That if any person or persons shall at any time hereafter pursue take kill or destroy or seek or endeavour to take kill or destroy pursue hurt or injure any salmon or salmon kind, by laying or using any hot lime or filth or material or drug pernicious to fish, or using any water in which any green lint or flax has been steeped, or letting off stagnated water or any water impregnated with any material or drug pernicious to fish; or if any person shall use or employ any such means as aforesaid or use any fire or light or white object or lay down any kind of net engine or device or wilfully do or commit or cause to be done or committed any act whatsoever in any river water rivulet stream mill dam mill sluice cut pool or pond communicating therewith, for the destruction of the brood spawn or small fry of salmon therein (angling excepted;) or if any person shall hereafter make erect or set any bank dam hedge or stank net or nets or place any fire or fires light or lights or any white object or objects so that the young fry or young salmon be prevented from going down from such rivers rivulets or other waters communicating therewith as aforesaid or any of them every such person so offending shall for every such first offence forfeit and pay any sum not exceeding ten pounds nor less than five pounds, and for every second and subsequent offence any sum not exceeding fifteen pounds nor less than ten pounds, at the discretion of the justice or justices before whom the offender or offenders shall be convicted, and shall also forfeit all the fish spawn brood or fry so taken, and all the nets weapons lines instruments boats devices or things used in the taking thereof.

No.

XXXIX.

58 Geo. III.

c. 43.

Penalty on
Persons having
in Possession
Spawn, Fry, or
Brood of Fish,
or unsizeable
Fish.

IV. And be it further enacted, That no person shall at any time after the first day of *September* one thousand eight hundred and eighteen take kill or destroy or knowingly have in his or her possession, either on the water or on the shore, or shall bring to shore or cry or carry about sell offer or expose to or for sale, or shall exchange for any goods matter or thing any spawn fry or brood of fish or any unsizeable fish, or any kepper or shedder salmon being unseasonable salmon commonly called *odd salmon*, or any salmon caught in any river during the periods when fishing for salmon is prohibited under the provisions of any law now in force, or when the same shall be prohibited by any order to be made by the justices at their sessions as herein-before provided; and it shall be lawful for any conservator or overseer thereof, or any other person under the authority of this Act, to take and seize all or any such spawn fry or brood of fish or such other fish as aforesaid wherever the same shall be found, together with all baskets and package in which the same shall be so found or taken, and to deliver the person on whom the same may be found to a constable or other peace officer; and after every such seizure shall be made the spawn fry or brood or other fish as aforesaid, together with the baskets and package in which the same shall be so seized, shall be delivered into the hands of some constable or other peace officer; and every such constable or other peace officer is hereby authorised and required to take every such offender with whom he shall be so charged for any such offence into his custody, and also the spawn fry or brood of fish and such other fish as aforesaid, and all baskets and packages in which the same shall be so seized, and which shall be delivered to such constable or other peace officer as aforesaid, and to carry such offender and all such spawn fry or brood of fish and such other fish as aforesaid, together with the baskets and package as aforesaid, which shall have been delivered to any such constable or other peace officer with all convenient speed before some justice or justices or magistrate of the county city or place where the offence shall be committed, for such offender to be dealt with according to law; and on the conviction of any such offender or offenders for any such offence before any such justice or justices or magistrate as aforesaid, every such offender shall forfeit all and every such spawn fry or brood of fish unsizeable fish and fish out of season which shall be so seized, together with all baskets or package in which the same shall be so seized; and all such spawn fry or brood of fish or such other fish as aforesaid, together with such baskets and package in which the same shall have been so seized as aforesaid, shall by order of the justice or justices before whom the same shall be so brought, be delivered to the person or persons who shall have so seized the same and shall prosecute to conviction any such offender; and every offender who shall be so convicted as aforesaid of any such offence shall besides forfeit and pay for every such offence any sum not exceeding ten pounds nor less than five pounds.

Act not to af-
fect the present
Modes of
Fishing.

V. Provided also and be it further enacted, That nothing herein contained shall extend or be deemed or construed to legalise, nor to demolish take away or destroy any net fish lock coop bay or other work which shall have been or may hereafter be lawfully erected put placed fixed or used in any such arm of the sea or estuary or mouth of any river, or in or upon any bank sand or shore thereof or near thereto, or in or near any river rivulet brook stream pond pool or other water mill-lead mill-dam sluice or cut which runs into or otherwise communicates therewith, or to the present modes or methods used for taking and killing fish therein other than and as are in this Act particularly prohibited.

Recovery of
Penalties.

VI. And be it further enacted, That every the pecuniary and other penalties and forfeitures by this Act imposed may be sued for recovered and adjudged, and every offence against this Act heard and determined by and before any one or more justice or justices of the peace or magistrate for the county shire division city or place wherein any offender against this Act shall be or reside, or wherein or near to which the offence or offences shall be committed by and upon the oath or affirmation of one or more credible witness or witnesses or by the confession of the party or

parties; which oath or oaths affirmation or affirmations every such justice of the peace and other magistrates aforesaid are hereby authorized empowered and required to administer accordingly; and in case any person who shall be convicted of any offence or offences against this Act, and shall not immediately upon such conviction pay down the penalty or penalties together with such costs of suit or prosecution in which he she or they shall have been so convicted or ordered to pay as aforesaid into the hands of the justice or justices of the peace or magistrate as aforesaid, by and before whom he or she shall have been so convicted, or other person by them or any of them authorised to receive the same, in order that the same may be disposed of and distributed according to the directions of this Act, it shall be lawful for any such justice or justices of the peace or magistrate aforesaid to order any constable or other peace officer to take the charge of and keep in custody any such person so convicted; and immediately thereupon every such justice or justices of the peace or magistrate is hereby authorised empowered and required to grant his or their warrant or warrants in due form of law under his or their hand and seal or hands and seals, and thereby commit every such offender to the common gaol or house of correction for the county shire division city or place for which such justice or justices or magistrates aforesaid shall act, for such time or times hereinafter mentioned, unless the said penalty or penalties and costs shall respectively be sooner paid; or otherwise such justice or justices of the peace or magistrate shall and may grant his or their warrant or warrants in due form of law under his or their hand and seal or hands and seals to levy and recover the said penalty and penalties and costs by distress and sale of the offender's goods and chattels; and that all penalties and forfeitures which shall be so paid or levied as aforesaid, shall from time to time be paid applied and disposed of as follows; (that is to say) one moiety thereof to the informer or informers, and the other moiety, after defraying all costs charges and expences attending the prosecution and the levying and recovering of the penalty, to the overseers of the poor of the parish or place where the offence or offences shall have been committed; and the overplus of the money levied remaining (if any there be), after any penalty or penalties and all costs charges and expences attending the levying and recovering thereof are deducted, (which costs charges and expences shall always be taxed settled and ascertained by and before the justice or justices of the peace or magistrate as by or before whom any such offender shall be convicted), shall on demand be returned to the owner or owners of the goods and chattels so distrained; and in case sufficient distress or distresses shall not be found, or such penalty or penalties and costs shall not be immediately paid, that then it shall be lawful for any such justice or justices of the peace or magistrate, and he and they is and are hereby respectively authorised empowered and required for the first offence to commit every such offender or offenders to such gaol or house of correction as aforesaid for any time not exceeding four months nor less than two months, for the second offence any time not exceeding eight months nor less than six months, and for the third and every other offence for any time not exceeding twelve months nor less than eight months, there to be kept at hard labour and be and remain without bail or mainprize.

VII. And be it further enacted, That it shall and may be lawful for any justice or justices of the peace or magistrate or any of them and they are hereby required, upon information being made to him or them upon oath against any person or persons who shall or may offend against any thing contained in this Act, to grant his or their warrant or warrants under his or their hand and seal or hands and seals, to apprehend any person or persons so offending, and cause such offender or offenders to be brought before him or them or some other such justice or other magistrate; or it shall and may be lawful to and for any such justice or justices or other magistrates as aforesaid, upon any information made without oath, to grant his or their summons or summonses against the party charged with any such offence or offences, or for any witness or witnesses to prove any such offence or offences as aforesaid; and if any such person

No.
XXXIX.
58 Geo. III.
c. 43.

Justices, on receiving Information, may grant Warrants for apprehending Offenders.

No.

XXXIX.

58 Geo. III.
c. 43.

Owners, &c. of
Fisheries may
be Witnesses to
prove Offences.

Penalties may
be sued for.

Form of Con-
viction.

or persons who shall be duly summoned shall neglect or refuse to appear at the time and place appointed by such summons or summonses, every such justice or justices of the peace or magistrate shall and may upon oath being made of the person or persons being so duly summoned, grant him or their warrant or warrants under his or their hand and seal or hands and seals, to apprehend and bring before him and them or some other such justice or magistrate as aforesaid, the party or parties who shall neglect or refuse to appear after being duly summoned as aforesaid; and such justice or justices or other magistrates aforesaid shall inquire into hear and determine the matter of every such offence or offences in a summary way.

VIII. And be it further enacted, That no owner farmer or occupier of, or any person otherwise interested in any fishery or right of fishing in any arm of the sea river or other water aforesaid, shall be deemed an incompetent witness to prove any offence or offences done or committed against this Act, by reason of his or her being such owner farmer or occupier.

IX. And be it further enacted, That every pecuniary penalty and forfeiture imposed by this Act may be recovered in a summary manner according to the provisions of this Act, or may be sued for and recovered together with full costs of suit by and to the only proper use and behoof of any person who shall inform or sue for the same in any of his Majesty's courts of record at *Westminster*, by action of debt bill plaint or information, wherein no essoin wager of law nor more than one imparlance shall be allowed.

X. And be it further enacted, That every conviction of every offender against this Act shall be certified by the justice or justices of the peace by and before whom the same shall be made to the general quarter sessions of the peace to be held in and for the county riding division city or place where the offender or offenders shall be convicted, and shall there be filed amongst the records of the said sessions; and every conviction shall be in the form of words or to the following effect:

' **B**E it Remembered, That on the _____ day of _____
' in the year _____ *A. B.* was, upon the
' complaint of *C. D.* convicted before me [or, us] *E. F.* one [or, two] of
' his Majesty's Justices of the Peace [as the case may be] for
' in pursuance of an Act made in the fifty-eighth year of the reign of
' his Majesty King *George* the Third, [insert the Title of the Act] for that
' the said _____ [state the offence] [and if a case in which
' different penalties are imposed for different offences] this being the first
' offence second or, third offence [as the case may be] and I [or, we] do
' hereby adjudge him [her or, them] to pay and forfeit of the said offence
' the sum of _____ of lawful money of *Great*
' *Britain*, together with the farther sum of _____ for costs
' of suit and prosecution, to the said *C. D.* Given under my hand and
' seal, [or, our hands and seals, as the case may be] at
' the county of _____ the day and year above written.'

Which said conviction and adjudication shall be good and valid in law to all intents and purposes, and shall not be quashed set aside or adjudged void or insufficient for want of form only; and shall not be liable to be removed by *certiorari* or otherwise into his Majesty's Court of King's Bench or any other of his Majesty's courts of record at *Westminster*, but shall be deemed and taken to be final to all intents and purposes whatsoever.

XI. And be it further enacted, That where any offender shall be punished for any offence by virtue of this Act such offender shall not again be prosecuted nor incur any penalty by virtue of any other law or statute now in force or be liable to any other punishment for the same offence.

XII. And be it further enacted, That every person who shall think himself or herself aggrieved by the judgment of any justice of the peace or magistrates in any of the cases aforesaid may appeal to the justices of the peace for the county shire division city or place where such judgment

Persons con-
victed under
this Act, not
to be prose-
cuted under any
other.
Appeal.

shall be given at the then next or next but one general quarter sessions of the peace; but that no such appeal shall be received heard or determined, unless the appellant or appellants shall within ten days next after such judgment and twenty days at the least before the holding of such sessions give and leave in writing as well at the public office of the clerk of the peace for such county shire division city or place where such person or persons shall be convicted, as to the person, or at the dwelling house of the informer or prosecutor, of his her or their intention to bring such appeal, and shall also enter into a recognisance before such justice or justices in such sum as any such justice or justices of the peace shall think fit, not exceeding twenty pounds, conditioned to try such appeal and likewise to pay the costs of such appeal in case judgment and sentence shall upon the hearing thereof be given against the appellant within ten days next after the determination thereof; and that the said justices at their said session shall and may, upon due proof of such notice given as aforesaid, hear and determine every such appeal in a summary way and shall award or order to the party in whose behalf such appeal shall be determined such costs and charges as they in their discretion shall think reasonable and just to be paid by the party or parties against whom such appeal shall be determined; and in case such costs and charges shall not be paid within the space of ten days next after the hearing and determining of such appeal, the same may be levied by distress and sale of the goods and chattels of the person or persons ordered to pay the same, or his or their surety or sureties in the same manner and by the same means as all distresses are ordered to be taken under or by virtue of this Act.

XIII. And be it further enacted, That no action of law shall be brought or commenced against any person or persons for any thing done or to be done by virtue or in execution of this Act, until one calendar month after notice thereof in writing shall have been given to the person or persons against whom such action shall be intended to be brought, or left at his her or their last or usual place or places of abode, setting forth the cause of such action and containing the name and place of abode of the plaintiff or plaintiffs and also of his or their attorney; and that every action brought for any thing done or to be done as aforesaid shall be brought within the space of three calendar months next after the cause of action or complaint shall arise, and shall be laid and sued in the county shire division city or place where the fact shall have been committed and not elsewhere; and the defendant or defendants therein may plead the general issue and give this Act and the special matter in evidence at any trial to be had thereupon and that the same was done by virtue thereof; and also that it shall and may be lawful to and for such person or persons at any time before action brought to tender amends to the party complaining or his or her agent or attorney, and in case the same is not accepted to plead such tender in bar to the action together with the plea of not guilty and any other plea with the leave of the court; and if on the trial of such action it shall appear that the same was brought before the expiration of one calendar month next after such notice shall have been so given or left as aforesaid or after the end of three months next after the cause thereof shall have arisen, or if such action shall have been brought or laid in any other county or place than as aforesaid, or after sufficient tender of amends shall have been made to the party or parties aggrieved, that then and in any of the cases aforesaid the jury shall find a verdict for and acquit the defendant or defendants in such action; or if the plaintiff or plaintiffs shall discontinue the same after the defendant or defendants shall have appeared or shall be nonsuited, and if upon demurrer judgment shall be given against the plaintiff or plaintiffs the defendant or defendants in such action shall have double costs and have the like remedies for recovering the same as defendants have for recovering their costs in other cases at law; and that no action suit information or other proceeding whatsoever shall be brought or commenced against any person or persons for any offence or offences against this Act, unless the same shall be laid or commenced within six calendar months next after any such offence or offences shall have been committed.

No.
XXXIX.
58 Geo. III.
c. 43.

Limitation
of Actions.

No.
XXXIX.
58 Geo. III.
c. 43.

Not to affect
the Provisions
of any Act ;
nor the Rights
of Manors.

Not to affect
the Rights of
Corporations ;

or of the City
of London.

XIV. Provided always and be it further enacted, That nothing in this Act contained shall extend or be construed to extend or alter any Act or Acts of Parliament or any clause provision regulation or penalty or forfeiture contained in any Act or Acts of Parliament in force for the regulation of any fishery or fisheries or the preservation thereof, or of the brood spawn or fry of fish in any particular county or arm of the sea estuary or river.

XV. Provided always and be it further enacted, That nothing herein contained shall extend to affect the rights of any lord or lords lady or ladies of any manor ; and it shall be lawful for such lord or lords lady or ladies and they are hereby required to appoint conservators for the protection of any river or rivers within their respective manors.

XVI. Provided also and it is hereby enacted, That nothing in this Act contained shall extend or be construed to extend to prejudice or derogate from the rights interests privileges franchises or authority of any body or bodies politick corporate or collegiate or their successors, or to prohibit defeat alter or diminish any power authority or jurisdiction which such body or bodies politick corporate or collegiate at the time of the passing of this Act did or might lawfully claim use or exercise in any river or rivers as aforesaid,

XVII. Provided also and it is hereby enacted and declared, That nothing in this Act contained shall extend or be construed to extend to prejudice or derogate from the rights interests privileges franchises or authority of the mayor and commonalty and citizens of the city of *London* or their successors, or the Lord Mayor of the said city for the time being, or to prohibit defeat alter or diminish any power authority or jurisdiction which at the time of making this Act the mayor and commonalty and citizens of the city of *London* or the Lord Mayor of the said city for the time being as conservator of the river *Thames* and waters of *Medway* did or might lawfully claim use or exercise.

PART VI.

CLASS XVII.

*Forcible Entry.**

* It has been thought most convenient to introduce this Subject in the present Division, although some of the Statutes have not any immediate Relation to the Functions of a Justice of Peace. For the general Exposition of the Law relating to it, see 1 Hawk. P. L. c. 64.—It is agreed, that an Indictment for a forcible Entry may be maintained at common Law; but an Indictment, stating that the Defendants, with Force and Arms, unlawfully broke and entered a Close, and unlawfully and unjustly expelled the Prosecutors, and kept them out of Possession, was held to be not sufficiently descriptive of the force requisite to constitute such Offence. It ought to amount to an actual Breach of the Peace; and this ought to appear on the face of the Indictment. *Rex v. Bake and others*, 3 Bur. 1731.—It is stated by Hawkins, that at common Law a Man disseised of Lands (if he could not prevail by fair means) might lawfully regain the Possession by force.—In *Rex v. Wilson and others*, 8 T. R. 357. the Indictment stated that the Defendants, vi et armis, unlawfully, injuriously, and with a strong Hand, entered a Mill; and unlawfully, injuriously, and with a strong Hand, expelled A. B. &c. There were other Counts omitting the expression, with a strong Hand, which were abandoned as untenable. The Count containing those Words was held sufficient to denote the degree of force requisite to support the Indictment: and, on a subsequent day, Lord Kenyon, referring to the Observations in Hawkins above cited, said, “Perhaps some doubt may hereafter arise respecting that doctrine; but without giving any opinion concerning it, we may on the other: but leaving it to be proved or disproved whenever the question shall arise, all that we wish to say is, that our opinion upon this case leaves that question untouched; it appearing that the Defendants unlawfully entered, and therefore the Court cannot intend that they had any Title.” It is manifest that the word ‘unlawfully’ is very often thrown into Indictments as a word of course; and, in general, the insertion of that word will not supply the want of any essential averment requisite to constitute an Offence. In the particular case, the question whether the insertion of the word unlawfully was equivalent to an averment negating a right of Entry was not argued at the Bar. A distinction is made with respect to an Entry into a Dwelling-house, in which case the words, with a strong Hand, are not necessary. See *Rex v. Bathurst, Sayer*. 225; cited 3 Bur. 1699, 1702. See also the other cases cited in *Rex v. Wilson*.—There is a Form of an Indictment in Cro. Circ. Comp., which, according to the Cases, is not sufficient, except in the instance of a Dwelling-house.

[N^o. I.] 5 Richard II. Stat. 1. c. 7.—Manumissions, Releases, and other Bonds made in the last Tumult by Compulsion, shall be void. It shall be Treason to begin a Riot, Rout, or Rumour.*

* I have thought it eligible to insert this Chap. and also Chap. 9, as shewing the circumstances under which Chap. 8 was enacted.

5 Richard II. Stat. 1. c. 8.—The Penalty where any doth enter into Lands where it is not lawful or with Force.

‘AND also the King defendeth, That none from henceforth make any entry into any lands and tenements, but in case where entry is given by the law; and in such case not with strong hand nor with multitude of people, but only in peaceable and easy manner. And if any

5 Richard II.
st. 1. c. 8.
Godbolt 145.
pl. 180.

Carthew 497. Regist. 182. Enforced and amended by 15 R. 2. c. 2. 4 H. 4. c. 8. 8 H. 6. c. 9. which is explained by 31 Eliz. c. 11. 10 H. 7. f. 27. 11 H. 7. f. 15. See farther 23 H. 8. c. 14. 21 Jac. 1. c. 15. whereby Justices are enabled to give Restitution in certain Cases.

No. I.
5 Rich. II.
st. 1. c. 8.

Enforced by
6 R. 2. stat. 1.
c. 4.

'man from henceforth do to the contrary and thereof be duly convict, he shall be punished by imprisonment of his body and thereof ransomed at the King's will.'

5 Richard II. Stat. 1. c. 9.—A Remedy for them whose Writings were destroyed in the late Insurrection.

15 Richard II.
c. 2.

Former Statutes concerning forcible Entries and Riots confirmed.

Kel. 41.
3 Bulst. 71.
Mod. Cases in Law, 65.

5 R. 2. stat. 1.
c. 8.

Enforced and amended by
4 H. 4. c. 8.
8 H. 6. c. 9.

23 H. 8. c. 14. See 31 Eliz. c. 11. which explains 8 H. 6. c. 9. See 21 Jac. 1. c. 15. which enables Justices to give Restitution in certain Cases.

[No. II.] 15 Richard II. c. 2.—The Duty of Justices of Peace when any forcible Entry is made into Lands.

'ITEM, It is accorded and assented, That the ordinances and statutes made and not repealed of them that make entries with strong hand into lands and tenements or other possessions whatsoever, and them hold with force, and also of those that make insurrections or great ridings riots routs or assemblies in disturbance of the peace or of the common law or in affray of the people shall be holden and kept and fully executed; joined to the same, That at all times that such forcible entry shall be made, and complaint thereof cometh to the justices of peace or to any of them, that the same justices or justice take sufficient power of the county and go to the place where such force is made; and if they find any that hold such place forcibly after such entry made they shall be taken and put in the next gaol, there to abide convict by the record of the same justices or justice until they have made fine and ransom to the King: And that all the people of the county as well the sheriffs as other shall be attendant upon the same justices to go and assist the same justices to arrest such offenders upon pain of imprisonment and to make fine to the King. And in the same manner it shall be done of them that make such forcible entries in benefices or offices of holy church.'

[No. III.] 8 Henry VI. c. 9.—The Duty of Justices of Peace where Land is entered upon or detained with Force.

8 Henry VI.
c. 9.

The Statute of
15 R. 2. c. 2.
touching forcible Entries rehearsed and confirmed,
4 Co. 48.
Hob. 94.
Keilw. 207,
208.

"ITEM, Whereas by the noble King RICHARD late King of England, after the Conquest the Second, at his Parliament holden at Westminster the Morrow after All Souls, the fifteenth year of his reign, amongst other things it was ordained and established, That the statutes and ordinances made and not repealed of them that make entries with strong hand into lands or tenements or other possessions whatsoever and them hold with force, and of them that make insurrections riots routs ridings and assemblies in disturbance of the peace or of the common law or in affray of the people should be holden and fully executed: And moreover it is ordained by the same statute, That at all times that such forcible entries be made and complaint thereof come to the justices of peace or any of them, that the same justices or justice shall take the power of the county and shall go or one of them shall go to the place where such force is made; and if they find or he findeth any holding such place forcibly after such entry made, they should be taken and put in the next gaol, there to remain convict by the record of the same justices or justice until they have made fine and ransom to the King; and that all the people of the county as well sheriffs as other shall be attending to the said justices, and to assist them to arrest such malefactors upon pain of imprisonment, and to make fine and ransom to the King. And that in the same manner be done of them that make forcible entries into benefices or offices of holy church, as in the same statute is contained more at large.

The Defects of
the Statute of
15 R. 2. c. 2.
Palmer 277.

"II. And for that the said statute doth not extend to entries in tenements in peaceable manner and after holden with force, nor if the persons which enter with force into lands and tenements be removed and

" voided before the coming of the said justices or justice as before, nor
 " any pain ordained if the sheriff do not obey the commandments and
 " precepts of the said justices to execute the said ordinance, many
 " wrongful and forcible entries be daily made in lands and tenements by
 " such as have no right, and also divers gifts feoffments and discontinuances
 " sometimes made to Lords and other puissant persons and
 " extortioners within the said counties where they be conversant, to have
 " maintenance, and sometimes to such persons as be unknown to them
 " so put out to the intent to delay and defraud such rightful possessors
 " of their right and recovery for ever, to the final disherison of divers of
 " the King's faithful liege people and likely daily to increase if due
 " remedy be not provided in this behalf;" " Our Lord the King considering
 " the premises hath ordained, That the said statute and all other
 " statutes of such entries or alienations made in times past, shall be
 " holden and duly executed; joined to the same, That from henceforth
 " where any doth make any forcible entry in lands and tenements or other
 " possessions or them hold forcibly, and after complaint thereof made within
 " the same county where such entry is made to the justices of peace or to
 " one of them by the party grieved, that the justices or justice so warned
 " within a convenient time shall cause, or one of them shall cause the
 " said statute duly to be executed, and that at the costs of the party so
 " grieved.

III. " And moreover though that such persons making such entry be
 " present or else departed before the coming of the said justices or justice,
 " notwithstanding the same justices or justice in some good town next to
 " the tenements so entered or in some other convenient place according
 " to their discretion shall have or either of them shall have authority and
 " power to inquire by the people of the same county as well of them that
 " make such forcible entries in lands and tenements as of them which
 " the same hold with force; and if it be found before any of them that
 " any doth contrary to this statute, then the said justices or justice shall
 " cause to reseise the lands and tenements so entered or holden as afore,
 " and shall put the party so put out in full possession of the same lands
 " and tenements so entered or holden as before. And if any person after
 " such entry into lands or tenements holden with force make a feoffment
 " or other discontinuance to any lord or other person to have maintenance
 " or to take away and defraud the possessor of his recovery in any wise
 " if after in assize or other action thereof to be taken or pursued before
 " justices of assizes or other the King's justices whatsoever by due inquiry
 " thereof to be taken, the same feoffments and discontinuances may be
 " duly proved to be made for maintenance as afore is said, that then such
 " feoffments or other discontinuance so as before made shall be void frustrate
 " and holden for none.

11 Co. 65. 7 Ed. 4. f. 8. 4 H. 7. f. 18. Cro. Eliz. 184. 189. 306. 458. 461. 582. 654.
 738. 915. Cro. Jac. 17. 19. 31. 41. 148. 151. 176. 214. Cro. Car. 101.

IV. " And also when the said justices or justice make such inquiries
 " as before, they shall make or one of them shall make their warrants and
 " precepts to be directed to the sheriff of the same county, commanding
 " him of the King's behalf to cause to come before them and every of
 " them sufficient and indifferent persons dwelling next about the lands so
 " entered as before to inquire of such entries, whereof every man which
 " shall be impanelled to inquire in this behalf shall have land or tenement
 " of the yearly value of forty shillings by the year at the least above re-
 " prises. And that the sheriff return issues upon every of them at the day
 " of the first precept returnable xx. s. and at the second day xl. s. and at
 " the third time C. s. and at every day after the double. And if any sheriff
 " or bailiff within a franchise having return of the King's writ be slack
 " and make not execution duly of the said precepts to him directed to
 " make such inquiries, that he shall forfeit to the King xx. li. for every
 " default, and moreover shall make fine and ransom to the King.

V. " And that as well the justices or justice aforesaid as the justices
 " of assizes and every of them at their coming into the country to take

No. III.

8 Henry VI.
c. 9.

The Office and
 Duty of Justices
 of Peace when
 any forcible En-
 try is made into
 Lands, or peace-
 able Entry, and
 after detaining
 with Force.
 Carthew, 49.

1 Leonard, 327.
 The Remedy
 where any
 Person entering
 by Force doth
 alienate the same
 Land to have
 Maintenance.
 1 R. 2. c. 9.
 Dyer 122. 187.
 9 Co. 118.

461. 582. 654.

The Justices
 Precept to the
 Sheriff to re-
 turn a Jury to
 inquire of for-
 cible Entries.

Juror to have
 40s. per Ann.

The Sheriff's
 Penalty for
 omitting his
 Duty.

No. III.
8 Henry VI.
c. 9.

What Action
may be had
against him who
doth put out,

or keep out of Possession with Force. 1 H. 7. f. 19. 6 H. 7. f. 12. 10 H. 7. f. 19.
15 H. 7. f. 17. Dyer, f. 142. Fitz. Ent. 15. 16. 17. 18. 21. 27. 33. 39. 45. 10 H. 7. f. 12.
10 Ed. 4. f. 10. Dyer, 214. Fitz. Dam. 23. 25. 10 Co. 116. 11 Co. 30. Cro. El. 93.
96. 106. 697. 22 H. 6. f. 18. Kel. f. 74. a. 187. 14 H. 7. f. 28. Dyer, f. 141.
Bro. Force, 22. 1 Bulst. 218. 2 Leon, 52. Co. Pl. f. 315.

The Authority
of the chief
Officers in Ci-
ties, &c. to re-
press Force.
Inforced and explained by 31 El. c. 11.

They may keep
their Land by
Force who have
had three
Years Posses-
sion. 1 Salk. 356. 1 Inst. 257. 5 R. 2. st. 1. c. 7. 4 H. 4. c. 8. 23 H. 8. c. 14. and see
21 Jac. 1. c. 15. which enables Justices to give restitution in certain Cases.

' assizes shall have and every of them shall have power to hear and de-
termine such defaults and negligencies of the said sheriffs and bailiffs
' and every of them as well by bill at the suit of the party grieved for
' himself as for the King to sue by indictment only to be taken for the
' King. And if the sheriff or bailiff be duly attained in this behalf by
' indictment or by bill, that he which sueth for himself and for the King
' have the one moiety of the forfeiture of xx. li. together with his costs
' and expences. And that the same process be made against such per-
' sons indicted or sued by bill in this behalf as should be against persons
' indicted or sued by writ of trespass done with force and arms against
' the peace of the King.

VI. ' And moreover if any person be put out or disseised of any lands
' or tenements in forcible manner, or put out peaceably and after holden
' out with strong hand; or after such entry any feoffment or discontinu-
' ance in any wise thereof be made to defraud and take away the right
' of the possessor; that the party grieved in this behalf shall have assize
' of novel disseisin or a writ of trespass against such disseisor. And if
' the party grieved recover by assize or by action of trespass and it be
' found by verdict or in other manner by due form in the law that the
' party defendant entered with force into the lands and tenements or them
' after his entry did hold with force, that the plaintiff shall recover his
' treble damages against the defendant; and moreover that he make fine
' and ransom to the King. And that mayors justices or justice of peace
' sheriffs and bailiffs of cities towns and boroughs having franchise, have
' in the said cities towns and boroughs like power to remove such entries
' and in other articles aforesaid rising within the same as the justices of
' peace and sheriffs in counties and countries aforesaid have.

VII. ' Provided always, That they which keep their possessions with
' force in any lands and tenements whereof they or their ancestors or
' they whose estate they have in such lands and tenements have conti-
' nued their possessions in the same by three years or more be not en-
' damaged by force of this statute.'

[No. IV.] 23 Henry VIII. c. 14.—Process of Outlawry
to lie in Actions, on 5 Rich. II. and in Covenant and
Annuity.

23 Henry VIII.
c. 14.

Like Process to
be had in every
Writ of An-
nuity and Co-
venant, as in
an Action of
Debt.

5 R. 2. st. 1.
c. 8.
Br. Exigent, 22.
53. 63.
Br. Process, 12.
125.

' FORASMUCH as there is great delay in actions of trespass brought
' upon the statute of Richard the Second, made in the fifth year of his
' reign, against them that make entries into any lands or tenements where
' their entry is not given by the law, and also in actions of annuity and
' actions of covenant, because there lieth no process of outlawry in such
' nature of actions: (2) For reformation whereof, it may please the
' King's Highness by the advice of the Lords Spiritual and Temporal and
' the Commons in this present Parliament assembled, and by authority of
' the same, to ordain and enact, That like process be had hereafter in every
' action from henceforth to be brought upon the said statute *anno quinto*
as is in a common action of trespass at the common law, (3) and that
also like process be had in every writ of annuity and covenant hereafter
to be sued as is in an action of debt.

[No. V.] 31 Eliz. c. 11.—An Act of Explanation or Declaration of the Statute of *octavo Regis H. 6.* concerning forcible Entries, the Indictments thereupon found.

No. V.
31 Eliz.
c. 11.

‘ WHEREAS there is one good Act made and established in the eighth year of the reign of King *Henry* the Sixth against such persons as should make forcible entry into lands tenements and other possessions or them should forcibly hold; and one very good proviso or clause in the said Act contained as ensueth.

31 Eliz. c. 11.
8 H. 6. c. 9.

II. ‘ Provided always, That they which keep their possessions with force in any lands, and tenements whereof they or their ancestors have continued their possession in the same by three years or more be not endamaged by force of the said statute.

III. ‘ And whereas divers of the Queen’s Majesty’s good and loving subjects and their ancestors or those whose estate they have for many years together above the space of three years or more have been in quiet possession of their dwelling-houses and other their lands and possessions; and now of late divers of her Majesty’s said subjects having entries made upon their possessions having had such quiet and long possession, for disturbing of such entrers and for keeping of their possession against such entrers by colour of indictments of forcible entry or forcible keeping possession found against them by means of the oaths of such entrers, have been removed and put out of their dwelling-houses and other their possessions which they have quietly held by the space of three years together or longer time next before such indictments found against them, against the true meaning and intent of the said proviso or clause contained in the said Act:’ (2) For remedy of which inconvenience and for true declaration and explanation of the law therein, (3) Be it ordained declared and enacted by the authority of this present Parliament, That no restitution upon any indictment of forcible entry or holding with force be made to any person or persons if the person or persons so indicted hath had the occupation or hath been in quiet possession by the space of three whole years together next before the day of such indictment so found and his her or their estate or estates therein not ended or determined; which the party indicted shall and may allege for stay of restitution, and restitution to stay until that be tried if the other will deny or traverse the same: (5) And if the same allegation be tried against the same person or persons so indicted, then the same person or persons so indicted to pay such costs and damages to the other party as shall be assessed by the judges or justices before whom the same shall be tried; the same costs and damages to be recovered and levied as is usual for costs and damages contained in judgments upon other actions. 5 R. 2. stat. 1. c. 7. 15 R. 2. c. 2. 4 H. 4. c. 8. 21 Jac. 1. c. 15.

The Proviso in the Statute of 8 H. 6. c. 9. touching Continuance of Possessions by Three Years. 1 Salk. 353.

No Restitution shall be made if the Party indicted hath been three years in quiet Possession, and his Estate not ended. Rayn. 84, 85. Dyer, 141. Costs shall be awarded against the Party indicted, if his said Allegation be found against him.

[No. VI.] 21 James I. c. 15.—An Act to enable Judges and Justices of the Peace to give Restitution of Possession in certain Cases.

BE it enacted by the authority of this present Parliament, That such judges justices or justice of the peace as by reason of any Act or Acts of Parliament now in force are authorised and enabled upon inquiry to give restitution of possession unto tenants of any estate of freehold of their lands or tenements which shall be entered upon with force or from them withholden by force, shall by reason of this present Act have the like and same authority and ability from henceforth (upon indictment of such forcible entries or forcible withholdings before them duly found) to give like restitution of possession unto tenants for term of years tenants by copy of court-roll guardians by knights-service tenants by *elegit* statute-merchant and staple, of lands or tenements by them so holden which shall be entered upon by force or holden from them by force. 5 R. 2. stat. 1. c. 7. 15 R. 2. c. 2. 8 H. 6. c. 9. 31 El. c. 11.

21 James I.
c. 15.

4 Inst. 176. Restitution of Possession shall be given, to avoid Entries with Force, in Estates for Years, &c. Latch. 183.

PART VI.

CLASS XVIII.

Friendly Societies, and Foundling Hospitals.

[No. 1.] 33 George III. c. 54.—An Act for the Encouragement and Relief of Friendly Societies.—[21st June 1793.]

33-Geo. III.
c. 54.

Any Number of
Persons may
form them-
selves into a
Society, and
raise among
themselves a
Fund for their
mutual Benefit,
and may make
Rules and im-
pose Fines, &c.

‘ WHEREAS the protection and encouragement of Friendly Societies in this kingdom for raising by voluntary subscription of the members thereof separate funds for the mutual relief and maintenance of the said members in sickness old age and infirmity is likely to be attended with very beneficial effects by promoting the happiness of individuals and at the same time diminishing the publick burthens;’ May it therefore please your Majesty that it may be enacted; and be it enacted by the King’s most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That it shall and may be lawful to and for any number of persons in *Great Britain* to form themselves into and to establish one or more society or societies of good fellowship, for the purpose of raising from time to time by subscriptions of the several members of every such society or by voluntary contributions, a stock or fund for the mutual relief and maintenance of all and every the members thereof in old age sickness and infirmity, or for the relief of the widows and children of deceased members; and to and for the several members of each such society or such number of them as shall be nominated a committee for that purpose, from time to time to assemble together, and to make ordain and constitute such proper and wholesome rules orders and regulations for the better government and guidance of the same as to the major part of such society or such committee thereof so assembled together shall seem meet, so as such rules orders and regulations shall not be repugnant to the laws of this realm nor any of the express provisions or regulations of this Act, and to impose and inflict such reasonable fines and forfeitures upon the several members of any such society who shall offend against such rules orders or regulations as shall be just and necessary for duly enforcing the same, to be respectively paid to such uses for the benefit of such society, as such society by such rules orders or regulations shall direct; and also from time to time to alter and amend such rules orders and regulations as occasion shall require, or to annul and repeal the same, and to make new rules orders and regulations in lieu thereof, under such restrictions as are in this Act contained. (1.)

(4.) In *Rex v. Justices of Staffordshire*, 12 East. 288. the Court of B. R. refused a Mandamus to allow the Rules of a Society of Roman Catholic Secular Priests, as not being within the meaning of the Act; the object of the Society not being confined to the charitable relief and maintenance of its old, sick, and infirm Members. There are many Societies established amongst journeymen in particular trades, ostensibly for the purposes of

this Act, but really for the purpose of supporting illegal Combinations; and I have seen the Rules of such Societies (which have been inadvertently allowed) containing provisions which were evidently foreign from the purposes of the Act. At some Sessions it is the practice not to allow the Rules of any Society, of which all the Members are, by the Constitution of the Society, to be of the same occupation.

II. Provided always, and be it further enacted by the authority aforesaid, That all such rules orders and regulations with all convenient speed after the same shall be made altered or amended, and so from time to time after every making altering or amending thereof, shall be exhibited in writing to the justices of the peace assembled at the general quarter sessions of the peace or at any adjournment thereof in and for the county riding division or shire where such society shall be established, and such rules orders and regulations shall be subject to the review of such justices, who shall and may after due examination thereof at the then or the then next subsequent session annul and make void all such rules orders or regulations as shall be repugnant to this Act, and shall allow and confirm all such rules orders and regulations as shall be conformable to the true intent and meaning of this Act; and after the confirmation thereof by such justices all such rules orders and regulations so confirmed shall be signed by the clerk of the peace at such sessions, and a duplicate thereof being first fairly wrote on parchment shall be deposited with the clerk of the peace at such sessions, to be by him filed with the rolls of the sessions there without any fee to be paid for any matter or thing relating to the same; and such rules orders and regulations approved of and confirmed by the justices and filed as aforesaid shall be binding upon all parties during the continuance of the same; and no such society which shall hereafter be established shall be deemed or taken to be within the intent and meaning of this Act until good and competent rules orders and regulations for the government of the same shall have been confirmed by the justices and filed as aforesaid, according to the directions of this Act before mentioned: nor shall any such society which hath already been established for the purpose aforesaid, be or be deemed or taken to be within the intent and meaning of this Act, unless all the rules orders or regulations under which such society is thereafter to be governed shall be exhibited and confirmed in manner aforesaid, and shall be filed at the general quarter sessions of the peace or at any adjournment thereof to be holden in and for the county riding division or shire where such society hath been established, at some time before or immediately next after the Feast of *Saint Michael* in the year one thousand seven hundred and ninety-four.

III. Provided also, and be it further enacted by the authority aforesaid, That no rule order or regulation confirmed by the justices of the peace in manner aforesaid shall be altered rescinded or repealed, unless at a general meeting of the members of such society as aforesaid convened by publick notice in writing signed by the secretary or clerk of such society, in pursuance of a requisition for that purpose by three or more of the members of such society, and publicly read at the two usual meetings of such society to be held next before such general meeting for the purpose of such alteration or repeal, unless a committee of such members shall have been nominated for that purpose, in which case such committee shall be convened in like manner, and unless such alteration or repeal shall be made with the concurrence and approbation of three-fourths of the members of such society then and there present, or by the like proportion of such committee as aforesaid if any shall have been nominated for that purpose; and such alteration or repeal shall be subject to the review of the justices at such general quarter sessions of the peace or at any adjournment thereof as aforesaid, and shall be filed in the manner herein-before directed; and that no such rule order or regulation shall be binding or have any force or effect until the same shall have been agreed to and confirmed by such justices and filed as aforesaid.

IV. And be it further enacted by the authority aforesaid, That every such society shall and may from time to time at any of their general meetings or by their committee, if any such shall be appointed for that society, elect and appoint such persons into the office of steward president warden treasurer or trustee of such society as they shall think proper, and also shall and may from time to time elect and appoint such clerks and other officers as shall be deemed necessary to carry into execution the purposes of such institution, for such space of time and for

No. I.

33 Geo. III.
c. 54.

Rules of such Societies to be exhibited to the Justices in Quarter Sessions, who may annul or confirm them.

Rules to be signed by the Clerk of the Peace, and deposited with him.

No Society to be within the Meaning of this Act till their Rules have been confirmed.

No confirmed rule to be altered but at a General Meeting of the Society, &c.

Alterations of Rules to be subject to the Review of the Quarter Sessions.

Society may appoint Officers.

No. I.

33 Geo. III.

c. 54.

Securities to be given for Officers of Trust, if required.

Treasurers or Trustees to give Bond to the Clerk of the Peace;

and other Persons to the Treasurers or Trustees.

Bonds not chargeable with Stamp Duty.

Appointment of Committees.

Powers of Standing Committees to be declared in the Rules of the Society, and of particular ones entered in a Book.

Committees controulable by Society.

Treasurers or Trustees to lay out Surplus of Contributions,

such purposes as shall be fixed and established by the rules and regulations of such society, and from time to time to elect and appoint others in the room of those who shall vacate or die; and such treasurer or treasurers trustee or trustees and all and every other officer or officers or other persons whatever, who shall be appointed to any office in any wise touching or concerning the receipt management or expenditure of any sum or sums of money collected for the purpose of any such society; before he or they shall be admitted to take upon him or them the execution of any such office or trust shall (if required so to do by the rules or regulations of such society to which such officers shall belong) become bound with two sufficient sureties for the just and faithful execution of such office or trust, and for rendering a just and true account according to the rules orders and regulations of such society and in all matters lawful to pay obedience to the same, in such penal sum or sums of money as by the major part of such society at any such meeting as aforesaid shall be thought expedient, and to the satisfaction of such society; and that every such bond or bonds to be given by or on the behalf of such treasurer or treasurers trustee or trustees shall be given to the clerk of the peace of the county riding division or shire where such society shall be established for the time being without fee or reward; and in case of forfeiture it shall be lawful to sue upon such bond in the name of the clerk of the peace for the time being for the use of the said society; and every such bond or bonds to be given by any other person or persons appointed to any such other office or trust as aforesaid shall be given to the treasurer or treasurers trustee or trustees as aforesaid of such society for the time being, to be by him or them respectively prosecuted for any forfeiture thereof, and for the use of such society to which such officer or officers shall belong; and no bond or other security to be given to or on account of any such society or in pursuance of this Act shall be charged or chargeable with any stamp duty whatever.

V. And be it further enacted by the authority aforesaid, That every such society shall and may from time to time elect and appoint any number of the members of such society, not less than eleven, to be a committee, and shall and may delegate to such committee all or any of the powers given by this Act to be executed, who being so delegated shall continue to act as such committee for and during such time as they shall be appointed; and in all cases where a standing committee shall be appointed for such society for general purposes, the powers of such committee shall be first declared in and by the rules orders and regulations of such society, confirmed by the justices of the peace at their sessions, and filed in the manner herein-before directed; and in all cases where a committee shall be appointed for any particular purpose or purposes, the powers delegated to such committee shall be reduced into writing and entered into a book by the secretary or clerk of such society, and five of the members of such committee at least shall at all times be necessary to concur in any act of such committee, and such committee shall in all things delegated to them act for and in the name of such society; and all acts and orders of such committee under the powers delegated to them, shall have the like force and effect as the acts and orders of such society at any general meeting thereof could or might have had in pursuance of this Act: Provided always, that the transactions of such committee shall be from time to time and at all times subject and liable to the review allowance or disallowance and control of such society, in such manner and form as such society shall by their general rules orders and regulations confirmed by the justices and filed as aforesaid have directed and appointed or shall in like manner direct and appoint.

VI. And be it further enacted by the authority aforesaid, That it shall and may be lawful to and for the treasurer or treasurers trustee or trustees for the time being of any such society and he and they is and are hereby authorised and required from time to time by and with the consent of such society, to be had and testified in such manner as shall be directed by the general rules and orders of such society, to lay out or dispose of such part of all such sums of money as shall at any time be collected

given or paid to and for the beneficial ends and purposes of such society; as the exigencies of such society shall not call for the immediate application or expenditure of, either on private securities to be approved of as aforesaid, (such securities to be taken in the name or names of such treasurer or treasurers trustee or trustees for the time being,) or to invest the same in the public stocks or funds in the proper name or names of such treasurer or treasurers trustee or trustees, and from time to time with such consent as aforesaid to alter and transfer such securities and funds and to make sale thereof respectively.

VII. And be it further enacted by the authority aforesaid, That all the dividends interest and proceeds which shall from time to time arise from the monies so laid out or invested as aforesaid, shall from time to time be brought to account by such treasurer or treasurers trustee or trustees, and shall be applied to and for the use of such society according to the rules orders and regulations thereof.

VIII. Provided always and be it further enacted by the authority aforesaid, That the treasurer or treasurers trustee or trustees for the time being, and all other officers of any such society who shall have or receive any part of the monies effects or funds of such society, or shall in any manner have been or shall be entrusted with the disposition management or custody thereof, or of any securities relating to the same, his her and their executors administrators and assigns respectively, shall upon demand made in pursuance of any order by such society or committee to be appointed as aforesaid for that purpose, give in his or their account or accounts at a general meeting of any such society or to such committee thereof as aforesaid, to be examined and allowed or disallowed, and shall on the like demand pay over all the monies remaining in his or their hands and assign and transfer or deliver all securities effects or funds taken or standing in his or their name or names as aforesaid, or being in his or their hands or custody to the treasurer or treasurers or trustee or trustees for the time being or to such person or persons as such society shall appoint; and in case of any neglect or refusal to deliver such account or to pay over such monies or to assign transfer or deliver such securities or funds in manner aforesaid, it shall and may be lawful to and for every such society, in the name of the treasurer or treasurers trustee or trustees thereof as the case may be, to exhibit a petition in the High Court of Chancery or the Court of Exchequer in *England* or the Court of Session in *Scotland* or the Courts of Great Sessions in *Wales* respectively, who shall and may proceed thereupon in a summary way and make such order therein upon hearing all parties concerned as to such court in their discretion shall seem just; and all assignments and transfers made in pursuance of such order shall be good and effectual in law, to all intents and purposes whatsoever.

IX. And be it further enacted by the authority aforesaid, That no fee reward emolument or gratuity whatsoever shall be demanded taken or received by any officer or minister of such court, for any matter or thing done in such court in pursuance of this Act; and that upon the presenting of any such petition, it shall be lawful for the Lord High Chancellor the Master of the Rolls and Barons of the Exchequer respectively in *England*, or the Lords of Session in *Scotland*, or the Judges of any of the Courts of Great Sessions in *Wales*, to assign counsel learned in the law and to appoint a clerk of such court to advise and carry on such petition on the behalf of such society, who are hereby respectively required to do their duties therein without fee or reward; and that no such proceedings in such court in pursuance of this Act shall be chargeable with any stamp duty.

X. And be it further enacted by the authority aforesaid, That if any person appointed to any office by any such society, and being entrusted with or having in his hands or possession any monies or effects belonging to such society or any securities relating to the same, shall die or become a bankrupt or insolvent, his executors or administrators assignee or assignees shall, within forty days after demand made by the order of any such society or the major part of them assembled at any meeting thereof, deli-

and to bring the Proceeds to Account for the Use of the Society.

Treasurers, &c. to render Accounts, and pay over Balances, &c.

and in case of Neglect, Application may be made to the Court of Chancery, &c.

No Fee to be taken for any Proceedings in such Courts, &c.

Executors, &c. to pay Money due to Societies before any other Debts.

No. I.
33 Geo. III.
c. 54.

Effects of Societies to be vested in the Treasurers or Trustees for the Time being, who may bring and defend Actions, &c.

Societies to declare the Purpose of their Establishment, &c. before the Confirmation of their Rules by the Quarter Sessions;

and may inflict Penalty for Misapplication of Money.

The Consent necessary for Dissolution of Societies.

ver over all things belonging to such society to such person or persons as such society shall appoint and shall pay out of the assets or effects of such person all sums of money remaining due, which such person received by virtue of his said office, before any of his other debts are paid or satisfied; and all such assets and effects shall be bound to the payment and discharge thereof accordingly.

XI. And be it further enacted by the authority aforesaid, That all monies goods chattels stocks annuities and other transferrable securities and effects whatever belonging to such society, shall be vested in the treasurer or treasurers trustee or trustees for the time being for the use and benefit of such society, and from and after the death or removal of any treasurer or treasurers trustee or trustees shall vest in the succeeding treasurer or treasurers trustee or trustees for the same estates and interests as he or they then had therein and subject to the same trust without any assignment or transfer whatever; and also shall for all purposes of action or suit as well criminal as civil in law or in equity in any wise touching or concerning the same, be deemed and be taken to be and shall in every such proceeding (where necessary) be stated to be the property of the person or persons appointed to the office of treasurer or treasurers trustee or trustees (as the case may be) of such society for the time being in his her or their proper name or names; and such person or persons so appointed shall, and they are hereby respectively authorised to bring or defend or cause to be brought or defended any action suit or prosecution criminal as well as civil, touching or concerning such monies goods or chattels or effects of or belonging to such society; and such person or persons so appointed shall and may in all cases concerning the property of such society sue and be sued plead and be impleaded in his or their proper name or names without other description; and no such suit action or prosecution shall be discontinued or abate by the death or removal of such person or persons from the said office of treasurer or treasurers trustee or trustees aforesaid, but the same shall and may be proceeded in by the succeeding treasurer or treasurers trustee or trustees in the proper name or names of the person or persons commencing the same; any law usage or custom to the contrary thereof notwithstanding.

XII. And be it further enacted by the authority aforesaid, That every such society so to be established as aforesaid, before any of the rules orders or regulations thereof shall be confirmed by the justices in the manner herein-before directed, shall in or by one or more of the general rules orders or regulations to be confirmed by such justices declare all and every the intents and purposes for which such society is intended to be established; and shall also in and by such rules orders and regulations direct all and every the uses and purposes to which the money which shall from time to time be subscribed paid or given to or for the use or benefit of such society, or which shall arise therefrom or in anywise belonging to such society, shall be appropriated and applied, and in what shares and proportions and under what circumstances any member of such society or other person shall or may become entitled to the same or any part thereof; and which application shall not in anywise be repugnant to the uses intents and purposes of such society or any of them so to be declared as aforesaid; and all such rules orders or regulations during the continuance of the same shall be complied with and enforced; and the monies so subscribed paid or given or so arising to or for the use or benefit of such society or belonging thereto shall not be diverted or misapplied either by the treasurer or treasurers trustee or trustees or any other officer or officers of such society entrusted therewith, under such penalty or forfeiture as such society shall by any general rule order or regulation impose and inflict for such offence; and that it shall not be lawful for any such society by any rule order or regulation at any general meeting or otherwise to dissolve or determine such society so long as the intents or purposes declared by such society or any of them remain to be carried into effect without the consent and approbation of five-sixths of the then existing members of such society and also of all persons then receiving or then entitled to receive relief from such society either on account of sickness

No. I.

33 Geo. III.
c. 54.

Stock not divisible but for the general Purposes of the Society.

Rules to be entered into a Book, and received in Evidence, &c.

Societies may receive Donations.

Proceedings, where Members think themselves aggrieved.

age or infirmity, to be testified under their hands individually and respectively; nor shall it be lawful for such society by any rule order or regulation to direct the division or distribution of such stock or fund or any part thereof to or amongst the several members of such society, other than for carrying into effect the general intents and purposes of such society declared by them and confirmed by the justices of the peace as aforesaid according to the directions of this Act, but that all such rules orders or regulations for the dissolution or determination of any such society without such consent as aforesaid, or for the distribution or division of the stock or fund of such society contrary to the rules orders and regulations which shall have been confirmed by the said justices at their sessions and filed in pursuance of this Act shall be void and of none effect.

XIII. And be it further enacted by the authority aforesaid, That all the rules orders and regulations from time to time made ordained and constituted by any such society in the manner directed by this Act shall be forthwith entered into a book or books to be kept by one or more of the members of such society to be appointed for that purpose and shall be signed by the said members, and shall at all seasonable times be open for the inspection of any member of such society; and all such rules orders and regulations so entered and signed shall be deemed original orders and shall be received in evidence as such in all disputes and in all trials before any court in this kingdom; and that no *certiorari* shall be brought or allowed to remove any of the rules orders or regulations of any such society made in pursuance of this Act into any of his Majesty's courts of record at *Westminster*.

XIV. And be it further enacted by the authority aforesaid, That it shall and may be lawful for any such society to receive donations of any person or persons towards the supply of their stock or fund, and all such sums shall be applicable to the general purposes of such society in the like manner as the contributions of the several members of such society are or shall be directed to be applied in pursuance of this Act, and shall not be applied in any other manner.

XV. And be it further enacted by the authority aforesaid, That if any person having been admitted a member of any such society established by virtue of this Act shall think himself aggrieved by any act matter or thing done or omitted to be done by any such society or any person or persons acting under them, it shall and may be lawful for any two or more justices of the peace of the county riding division or shire where or near unto the place where such society shall be established, on complaint made upon oath or affirmation by or on the behalf of such person (which oath or affirmation such justices of the peace are hereby empowered and required to administer) to issue their summonses to the presidents wardens stewards or other principal officers of such society by whatever name such principal officers shall be respectively named or called, or one of them in case such complaint shall be made against such society collectively, and in case such complaint shall be made against any person or persons appointed to such office or offices then to summon such person or persons to appear before such justices at a convenient time and place to be respectively named in such summonses; and also to summon at the same time and place, if there shall be occasion, all such persons as shall appear to such justices to have the custody of the rules orders and regulations of such society, and such justices at the time and place named in such summonses, whether the person or persons so summoned shall or shall not appear according to such summonses, nevertheless on proof upon oath or affirmation of such summonses being duly served or left at his her or their usual place or places of abode, shall proceed peremptorily to hear and determine in a summary way the matter of such complaint according to the true purport and meaning of the rules orders and regulations of such society confirmed by the justices according to the directions of this Act, and shall make such order therein as to them shall seem just; and every such order of such justices shall be complied with and shall be final to all intents and purposes, and shall not be subject to appeal or to be removed or removeable into any of his Majesty's courts of record at *Westminster*.

No. I.

33 Geo. III.
c. 54.

Where general Rules direct Disputes to be settled by Arbitration, the Award of the Arbitrators to be final.

No Member of a Society, producing a Certificate thereof, to be removeable till actually chargeable to a Parish.

How Certificates are to be authenticated.

On Complaint of Parish Officers, Justices may summon Persons bringing Certificates to be examined, and make Oath of their Settlement, &c.

XVI. Provided always and be it further enacted by the authority aforesaid, That if provision shall be made by one or more of the general rules or orders of any such society and confirmed as required by this Act for a reference by arbitration of any matter in dispute between any such society or any person or persons acting under them and any individual members thereof, the matter so in dispute shall be referred to such arbitrators as shall be named and elected in such manner as shall be prescribed by such general rules or orders; and whatever award or order of determination shall be made by the said arbitrators or the major part of them according to the true purport and meaning of the rules and orders of such society confirmed by the justices according to the directions of this Act shall be binding and conclusive on all parties and shall be final to all intents and purposes without appeal or being subject to the controul of two or more justices of the peace in the manner herein-before prescribed.

XVII. And be it further enacted by the authority aforesaid, That no member of any society to be established in pursuance of this Act who shall inhabit or reside in any parish township or place, not having a legal settlement there, or who shall come to inhabit or reside there, and shall deliver to the churchwardens or overseers of the poor of such parish township or place or to any or either of them a certificate under the hands of the stewards presidents wardens or treasurers of such society or any two of them for the time being, to be attested by one or more credible witness or witnesses, thereby acknowledging the person mentioned in such certificate to be a member of such society, shall during the time such person shall continue to be such member thereof be removeable from any parish township or place where any such certificate hath been delivered as aforesaid to the place of his or her last legal settlement by virtue of any law now in being relative to the settlement of the poor, until such person shall become actually chargeable to such parish township or place or shall be forced to ask relief for himself or herself or for his or her family or for some part thereof of the parish township or place to which such certificate was delivered as aforesaid, and that then and not before it shall and may be lawful for such person together with his or her family, not having otherwise acquired a legal settlement there, to be removed and conveyed to the last legal place of settlement of such person as aforesaid according to the laws now in being relating to the settlement of the poor.

XVIII. Provided always and be it further enacted, That every such certificate shall express the place and places of abode respectively of the persons signing and attesting the same; and that one of the witnesses attesting the same shall make oath before a justice of the peace of the county riding division shire liberty borough town corporate or place where such society shall be established, (which oath such justice of the peace is hereby authorised and required to administer) that such witness did see the persons whose names are thereunto set severally sign the said certificate, and that the name or names of such witness or witnesses is or are of his or their own proper hand-writing, which said justice of the peace shall also certify that such oath was made before him; and every such certificate so made and oath of the execution thereof so certified by the said justice of the peace shall be taken deemed and allowed in all courts whatsoever as duly and fully proved, and shall be taken and received as evidence without other proof thereof.

XIX. Provided always and be it further enacted by the authority aforesaid, That it shall and may be lawful, upon complaint made by the churchwardens and overseers of the poor of any parish township or place where such certificate shall be delivered to any justice or justices of the peace of the county riding division or shire or of the city borough town corporate or place where any such person as aforesaid shall inhabit or reside or come to inhabit or reside under the authority of this Act, for such justice or justices of the peace to cause any such person mentioned in such certificate as aforesaid to be summoned before him or them in the division or place where such person shall so reside or come

to reside, in order to be examined and to make oath touching the place of his or her last legal settlement (which examination upon oath the said justice or justices is and are hereby empowered and required to take), and every such person so summoned is hereby directed or required to obey such summons and to make oath accordingly; and such justice or justices is and are hereby respectively required to give an attested copy of such examination so taken before him or them to the person making the same, to be by him or her or any person on his or her behalf at any time afterwards produced before any such of his Majesty's justices of the peace as aforesaid, before whom such person shall be again summoned to make oath as aforesaid; and that in case any such person shall be so again summoned, then on the production of such attested copy as aforesaid such person shall not be compelled or required to take any other or further oath with regard to any of the matters contained in such examination, but such person shall if required permit a copy thereof to be taken for such last-mentioned justice or justices of the peace.

XX. And be it further enacted by the authority aforesaid, That it shall and may be lawful for any two or more of the justices of the peace as aforesaid who shall have taken such examination as aforesaid, or before whom such attested copy of such examination shall be produced, at the request of such churchwardens and overseers of the poor as aforesaid by an order in writing under the hand and seal or hands and seals of such justices to adjudge and declare the place of the last legal settlement of any such person having been so examined on oath as aforesaid, or such of his or of her family as shall reside in such parish township or place under the authority of this Act, without issuing any warrant to remove such person or his or her family as aforesaid to such place of his her or their last legal settlement, and that a duplicate of every such order shall be transmitted to the general quarter sessions of the peace to be holden next after the expiration of twenty days from the time of making thereof for the county riding division or shire where such person shall so reside, to be filed amongst the records of the said court; and that a copy of every such order to be attested by one or more credible witness or witnesses or a duplicate thereof, together with an attested copy of such examination to be annexed to such copy of such order or duplicate thereof, shall be delivered to the churchwardens and overseers of the poor of the parish township or place in which the person mentioned in such order shall be adjudged to be last legally settled as aforesaid or to any or either of them at least fifteen days before the first day of holding such sessions; and that upon due proof to be made on oath of one or more credible witness or witnesses before the justices of the peace at such sessions of the delivery of such copy or duplicate with such examination annexed thereto as aforesaid, it shall and may be lawful for the said justices of the peace at such sessions and they are hereby required to direct every such order to be filed amongst the records of the said court; and that every such order so filed shall be final and conclusive in ascertaining and determining the place of the last legal settlement of the person or persons named in such order, unless the same shall be appealed against within the time herein-after mentioned.

XXI. Provided always and be it further enacted by the authority aforesaid, That all persons who shall think themselves aggrieved by any such adjudication of the said justices may appeal to the general quarter sessions of the peace to be holden next after the expiration of fifteen days from the time of the delivery of such copy or duplicate as aforesaid for the county riding division or shire where such order was made; and the justices of the peace at such sessions shall and may receive such appeal and proceed to hear and determine the merits of such appeal in like manner with the same effect and under the like rules as if the person or persons mentioned in such order had been by warrant of two justices actually removed to the place where he she or they were last legally settled under and by virtue of any law in being before and at the time of the making of this Act, and may award the like costs on such appeal

No. I.

33 Geo. III.
c. 54.

Copies of Examinations to be given the Parties, which shall exempt them from future Examination.

Justices may declare by an Order in Writing the Place of Settlement of Persons so examined, without issuing Warrant for Removal.

Copies of such Orders and of Examinations to be returned to the Parish Officers of the Place of Settlement, &c.

Persons aggrieved by Adjudication of Justices may appeal to the Quarter Sessions.

No. I.
33. Geo. III.
c. 54.

No Person who shall reside in any Parish under this Act shall thereby acquire a Settlement; nor for paying Rates;

nor any Apprentice or Servant to such Persons.

Bastards to have the Mother's Settlement.

as may be awarded on appeals from orders of removals of poor persons by any statute or statutes now in force to be recovered in like manner as costs awarded under the authority of such statute or statutes.

XXII. And be it further enacted by the authority aforesaid, That no member of any such society who shall reside in any parish township or place under and by virtue of this Act, shall have or be deemed to have acquired any settlement in such parish township or place by delivery and publication of any notice in writing, unless the same shall be made after such person shall cease to be a member of such society, and after the revocation of his or her certificate herein-before mentioned.

XXIII. And be it further enacted, That no member of any such society who shall reside as aforesaid under the authority of this Act, and shall be taxed rated or assessed towards any of the rates taxes or levies of the parish township or place where such member shall reside and shall duly pay the same, shall be deemed or taken thereby to have any legal settlement in such parish township or place; any law to the contrary in anywise notwithstanding.

XXIV. And be it further enacted by the authority aforesaid, That no person who shall be an apprentice bound by indenture to or shall be a hired servant to or with any person who did come into or shall reside in any parish township or place under the authority of this Act, and not afterwards having gained a legal settlement in such parish township or place, shall gain or be adjudged to have any settlement in such parish township or place by reason of such apprenticeship or binding or by reason of such hiring or serving therein; but all such apprentices and servants shall have their settlements in such parish township or place as if they had not been bound or had not been hired to such person as aforesaid; (1.) any Act or Acts of Parliament to the contrary notwithstanding.

XXV. And be it further enacted, That every child which shall be born a bastard in any parish township or place during the mother's residence therein under the authority of this Act (2.) shall have and be deemed to have the same settlement which the mother has or is entitled unto at the

(1.) In order to prevent the Settlement of an Apprentice bound to a Master who was residing in the Parish under a Certificate from a Friendly Society, by virtue of the Stat. 33 Geo. III. c. 54. it is not sufficient for the certificated Parish merely to produce the Certificate upon appeal to the Sessions from an order of removal of the Apprentice to such Parish, but they must also show that such Certificate had been delivered to the Parish Officers, as mentioned in Sec. 17. of the Act, before the Service of the Apprentice. *Rex v. Egremont, (Inhab.)* 14 E. R. 253.

(2.) This is the only case in which this part of the Act is at present endeavoured to be carried into execution with the view to prevent the removal of single women who are with child; but as such persons by 35 Geo. III. c. 101. are to be deemed actually chargeable, and as it was decided in *Rex v. Great Yarmouth*, 8 T. R. 68. that that Enactment extends to the case of a Woman residing under a Certificate, and not merely to the general Provisions of the Statute 35th Geo. III. against removing persons not actually chargeable: it seems to be, at least, very doubtful whether this or any of the other Sections of the present Act relating to Removals can be considered as in force: for if not actually chargeable, the party cannot now be removed; if actually chargeable, this Act contains no authority to prevent the removal. And as there is no provision for making any order

of Maintenance of Children born under the circumstances in question, supposing the place of Settlement to be different from that of the Birth, it would, perhaps, be expedient either to repeal these Clauses, or to declare by express Enactment that the Acts shall be considered as in force, and to provide for the Filiation of the Child, as if born in the place where the Settlement is. The impression of my own mind being that the Provision is virtually repealed. I have, in the course of magisterial duty, acted accordingly; although very far from confident of the correctness of the judgment which I have formed. *Ed.*

The 35 Geo. III. c. 101. has not repealed 33 Geo. III. c. 54; and, therefore, where an unemancipated daughter was delivered of a Bastard Child in the Township of I. during her father's residence there, under a Certificate acknowledging him to be a Member of a Friendly Society, established under 33 Geo. III. c. 54.: Held: that such Certificate extended not only to him, but to all the Members of his family also; that the Daughter, therefore, was at the time of her delivery residing in the township under the authority of 33 Geo. III. c. 54. and that by s. 25. of that Act, the settlement of the child followed that of the mother. *Rex v. Idle (Inhab.)* 2 B. and A. 149. See also *Rex v. Egremont (Inhab.)* 14 E. R. 253. post tit. *Poor Settlements*.

time of the birth of such child; any law usage or custom to the contrary notwithstanding.

XXVI. And be it further enacted by the authority aforesaid, That when any overseer or overseers of the poor of any parish township or place shall have been put to any charge in the maintaining any person or persons or their families residing in such parish township or place under the authority of this Act, or in removing any person or persons back to the place to which he she or they shall belong after he she or they shall have become actually chargeable or asked relief as aforesaid, such overseers shall from time to time be reimbursed such reasonable charges by the overseers of the poor of the parish township or place to which such person or persons shall belong, the said charges being first ascertained and allowed of by one or more of his Majesty's justices of the peace residing near the place where such charges shall be incurred; to be levied in case of refusal of payment by distress and sale of the goods and chattels of such overseers of the poor as last aforesaid by warrant or warrants under the hand and seal or hands and seals of such justice or justices, returning the overplus if any there be; which warrant or warrants he or they is and are hereby required to grant.

XXVII. And be it further enacted by the authority aforesaid, That this Act shall be deemed a public Act; and be judicially taken notice of as such by all judges justices and other persons whomsoever without the same being specially pleaded.

No. I.

33. Geo. III.
c. 54.

Charges of maintaining or removing Residents under this Act to be reimbursed by the Parish to which the Parties belong.

Publick Act.

[No. II.] 35 George III. c. 111.—An Act for more effectually carrying into Execution an Act, made in the Thirty-third Year of the Reign of his present Majesty, intituled, *An Act for the Encouragement and Relief of Friendly Societies*; and for extending so much of the Powers thereof as relates to the framing Rules and Regulations for the better Management of the Funds of such Societies, and the Appointment of Treasurers to other Institutions of a charitable Nature.—[26th June 1795.]

‘ WHEREAS by an Act passed in the thirty-third year of the reign of his present Majesty, intituled *An Act for the Encouragement and Relief of Friendly Societies*, it was provided that no society which had been established before the passing of the said Act for the purposes therein mentioned should be within the intent and meaning thereof, unless all the rules orders or regulations under which such society should thereafter be governed, should be exhibited confirmed and filed at the general quarter sessions of the peace holden for the county riding division or shire, at some time before or immediately next after the Feast of *Saint Michael* one thousand seven hundred and ninety-four: And whereas many such societies may have inadvertently omitted to take the benefit of the said Act: May it therefore please your Majesty that it may be enacted, and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That it shall be lawful for any such society to exhibit the rules orders and regulations made for its government at any general quarter sessions of the peace, or at any adjournment thereof to be holden in and for the county riding division or shire where such society hath been established, at any time before or immediately after the *Michaelmas* session in one thousand seven hundred and ninety-six; and that such rules orders and regulations being confirmed in the manner in the said recited Act directed may be filed at such sessions, and shall be valid and as effectual as if the same had been exhibited confirmed and filed within the time in the said recited Act limited.

35 George III.
c. 111.
33 Geo. 3. c. 54.
recited.

Societies established before passing recited Act may exhibit their Rules for Confirmation at any Quarter Sessions before or immediately after Michaelmas, 1796.

No. II.

35 Geo. III.

c. 111.

Governors of Institutions for Relief of Widows, &c. may frame Rules and present them for Confirmation as Societies established by virtue of recited Act.

Institutions whose Rules shall be confirmed may appoint Treasurers, &c. and be entitled to the Benefit of this Act.

II. 'And whereas several benevolent and charitable institutions and societies are formed in this kingdom for the purpose of relieving by voluntary subscriptions and benefactions widows orphans and families of the clergy and others in distressed circumstances: And whereas such institutions have or may have funds which they may wish to place out on public securities under the management of a treasurer: And whereas in order to give stability to such institutions, it is necessary that their property should be secured under the authority of Parliament: Be it therefore enacted, That it shall be lawful for the governors directors managers or members of any institution, for the purpose of relieving the widows orphans and families of the clergy and others in distressed circumstances, to frame good and wholesome rules for the management and distribution of their funds, and the same from time to time to amend and alter or to make new rules as occasion shall require, and to procure the same to be presented to the justices of the peace for their confirmation within the time herein-before limited and to be registered under and subject to the same conditions methods restrictions and regulations as the members of societies to be established by virtue of the said recited Act are directed to make alter amend or renew and register their rules.

III. And be it further enacted, That the governors directors managers or members of any such institution, whose rules shall be confirmed and registered according to the directions of the said recited Act, shall and may appoint a treasurer who shall give such security as is directed by the said recited Act; and that such treasurer so appointed shall be subject to account for the funds belonging to such institution, and the same shall be vested in such treasurer, and such treasurer shall sue and be sued in such manner as is directed by the said recited Act; and that all powers authorities rules methods directions regulations provisions conditions and restrictions in the said Act contained, so far as the same relate to the appointment of treasurers or to the taking security from such treasurer, and for protecting securing or recovering the funds vested in such treasurer, shall be extended to all and every the institutions established for the purposes herein-before mentioned by virtue of this Act or any of them; and all such institutions shall have and enjoy and be entitled unto the benefit of this Act with relation to the several matters before mentioned, as fully and effectually as any society established by virtue of the said recited Act can or may have or enjoy the same; and all the powers authorities rules methods directions regulations provisions conditions and restrictions in the said Act contained in relation to the several matters before mentioned shall be applied and put in execution with respect to the several institutions established by virtue of this Act, as fully and effectually as if the same had been particularly repeated and re-enacted in this Act.

[No. III.] 43 Geo. III. c. 111.—An Act for enabling Friendly Societies, intended to be established under an Act passed in the Thirty-third Year of the Reign of his present Majesty, to rectify Mistakes made in the Registry of their Rules.—[27th July 1803.]

43 George III. c. 111. 'WHEREAS by an Act passed in the thirty-third year of the reign of

' his present Majesty, intituled *An Act for the Encouragement and Relief of Friendly Societies*:" it was enacted, that the rules orders and regulations made or to be made for the government of the said societies, in order to entitle the said societies to the benefit of the said Act, should be first exhibited in writing to the justices of the peace assembled at the general quarter sessions of the peace or at some adjournment thereof in and for the same county riding division or shire where such society should be established, and should be subject to the examination review allowance and confirmation of such justices: And whereas several societies established in towns and places having peculiar

jurisdiction have inadvertently exhibited their rules orders and regulations to the justices assembled at the general or quarter sessions, having peculiar jurisdiction for such towns and places respectively, and not for the county riding division or shire at large, whereby they are or may be deprived of the benefit of the said Act: 'May it therefore please your Majesty that it may be enacted; and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That it shall be lawful for any such society who shall have exhibited the rules orders and regulations made for government thereof at any general or quarter sessions having peculiar jurisdiction for the town or place where such society is established, and not to the sessions for the county riding division or shire at large, to exhibit the rules orders and regulations of such society to the justices assembled at any general quarter sessions or any adjournment thereof to be holden for the county riding division or shire where such society is established, such rules orders and regulations bearing the certificate of the town clerk or other proper officer of the time when such rules orders and regulations were respectively first exhibited as aforesaid; or to exhibit in like manner a duplicate or a true copy of such rules orders and regulations with an affidavit annexed, to be taken before any one justice of the peace of the county riding division or shire where such society is established, which such justice is hereby authorised to take, of the time when such rules orders and regulations were respectively first exhibited as aforesaid, subject to the like examination review allowance and confirmation of the justices assembled at such last-mentioned general quarter sessions or adjournment thereof, as is directed by the said recited Act; and such rules orders and regulations being confirmed by the justices at such last-mentioned general or quarter sessions or any adjournment thereof in manner directed by the said recited Act may be filed at such sessions, and shall be as valid and effectual from the time the same were first exhibited at the sessions having such peculiar jurisdiction as aforesaid, as if the same had been originally exhibited and filed at the sessions holden for the said county riding division or shire.

No. III.

43 Geo. III.

c. 111.

Any Society having exhibited their Regulations at any Quarter Sessions for a peculiar Jurisdiction, may exhibit them to the Quarter Sessions for the County, with a Certificate or Affidavit of such first Exhibition; and such Regulations being confirmed, shall then be valid from the Beginning.

[No. IV.] 49 Geo. III. c. 125.—An Act to amend an Act made in the Thirty-third Year of his present Majesty, for the Encouragement and Relief of Friendly Societies.
—[20th June 1809.]

WHEREAS great advantage has been derived as well to the publick as to individuals by the establishment of friendly societies under the authority of an Act of the thirty-third year of the reign of his present Majesty, intituled, *An Act for the Encouragement and Relief of Friendly Societies*: And whereas it is expedient to make further provision for the attainment of the good purposes intended thereby: 'Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That if any person having been admitted a member of any society established under the authority of the said Act shall offend against any of the rules orders or regulations of such society, it shall be lawful for any two justices of the peace residing within the county riding division shire stewartry city liberty or place within which such society shall be held, upon complaint made on oath by any member of such society to issue their summons to such person against whom such complaint shall be made, and upon his or her appearance or in default thereof upon due proof upon oath of the service of such summons such justices shall proceed to hear and determine the said complaint according to the rules orders and regulations of the said society confirmed as directed by the said Act, and shall make such order therein as to them shall seem just; and in case the said justice shall adjudge any sum of money to be paid

49 George III.
c. 125.

Two Justices, on Complaint, may enforce the Observance of any Rules; and levy any Arrears by Distress and Sale.

No. IV.

49 Geo. III.
c. 125.

33 Geo. 3.
c. 84. § 2.

25 Geo. 3.
c. 111.

Benefits of re-
cited Act
33 Geo. 3. ex-
tended to all
Societies com-
plying with
this Act.

Two Justices
may order Re-
lief under said
Act, and shall
specify the
Time and Man-
ner of Payment.

by such person against whom such complaint shall be made, and such person shall not on notice of such order forthwith pay the sum of money so adjudged to the person or persons and in the manner directed by this Act, it shall be lawful for such justices and they are hereby required by warrant under their hands and seals to cause the same to be levied by distress and sale of the goods of such person on whom such order shall have been made, together with such costs as shall be awarded by the said justices and also the costs and charges attending such distress and sale, returning the overplus (if any) to the owner.

II. And whereas it was provided by the said Act of the thirty-third year of the reign of his present Majesty that no society to be established for the purposes therein recited should be deemed and taken to be within the meaning of the same Act, unless the rules of the society should be filed at the quarter sessions of the peace before the end of the year one thousand seven hundred and ninety-four, which time was enlarged by an Act of the thirty-fifth year of his present Majesty's reign to *Michaelmas* one thousand seven hundred and ninety-six: And whereas it is expedient that all societies which were established under the authority of the first-recited Act for the laudable purposes thereby intended previously to the same having been passed should be allowed to file their rules notwithstanding their having omitted to do so within the times limited; Be it therefore enacted, that all such societies, the rules orders and regulations of which shall have been exhibited to the justices of the peace since *Michaelmas* one thousand seven hundred and ninety-six, or which shall at any time hereafter be exhibited in the manner directed by the said recited Act of the thirty-third year of his present Majesty, and which shall have been or shall be dealt with examined approved of and confirmed by the justices in the manner therein directed, and have been or shall be deposited with the clerk of the peace and filed as directed also by the said Act, shall be deemed and taken to be within the intent and meaning of the said Act as amply and for all purposes as if their rules had been established within the periods limited in either of the recited Acts.

III. And be it further enacted, That if complaint shall be made to two such justices of the peace by any member of such societies, of relief having been refused to him by any such society to which he shall be lawfully entitled according to the rules of the society to which he shall belong, it shall be lawful for the said two justices of the peace residing within the county riding division shire stewartry city liberty or place within which such society shall be held, and such justices are hereby required upon complaint made by or on the behalf of the person aggrieved thereby to summon the person, being an officer of the society against whom such complaint shall be made, and upon his or her appearance or in default thereof upon due proof upon oath of the service of such summons such justices shall proceed to hear and determine the said complaint and award such sum of money to be forthwith paid to the said complainant as shall appear to such justices to be due on such award as aforesaid together with such a sum for costs not exceeding the sum of ten shillings as to such justices shall seem meet; and if the said sums so to be awarded together with such costs shall not be forthwith and in the presence of such justice or justices paid to such complainant or to some person or persons there attending on the behalf of such complainant, then such justices shall by warrant under their hands and seals cause such sum and costs as aforesaid to be levied by distress or by distress and sale of the monies goods chattels securities and effects belonging to the said society together with all further costs and charges attending such distress or such distress and sale, returning the overplus (if any) to the said society or to one of the treasurers or trustees thereof, and in default of such distress being found then to be levied by distress and sale of the proper goods of the officer or officers of the said society so neglecting or refusing as aforesaid, together with such further costs and charges as aforesaid, returning the overplus (if any) to the owner, and so from time to time as often as complaint shall be made of the non-payment of any sum or sums

directed by such order to be paid as aforesaid such justices shall by like warrant cause such arrears from time to time to be levied in the manner before directed: Provided always, that whatever sums shall be paid by any such officer or officers or levied on his or their proper goods in pursuance of the order of any justice as aforesaid shall be repaid with all damages accruing to him or them by and out of the monies belonging to such society or out of the first monies which shall thereafter be received by such society.

IV. And be it further enacted, That all orders made by justices of the peace by virtue of the said Act or this Act upon the complaint of any person having been admitted a member of any society established under the said Act who shall be aggrieved by any act matter or thing done or omitted to be done by any such society, shall be made upon the presidents wardens stewards treasurers trustees or other principal officers of the society to which such complaint shall relate, or any one or more of them or any of them at the discretion of the said justices in the proper name or names of such officer or officers; and every such order may be served upon the officer or officers so named therein, either by delivering a copy of the said order to such officer or officers or one of them or leaving the same at his last or usual place of abode; and such service shall be binding on such officer or officers and on the society to which such officer or officers shall belong, to do and perform or cause to be done or performed all and every the matters and things contained in and directed by such order to be done according to the true intent and meaning thereof.

V. And be it further enacted, That every order adjudication or award of any justice or justices under this Act shall be final and conclusive to all intents and purposes, and shall not be removed or removeable into any court of law or restrained or restrainable by the injunction of any court of equity.

No. IV.

**40 Geo. III.
c. 185.**

Orders of Justices shall be made on Officers of Societies by Name, and served on them.

All such Orders shall be final.

[**No. V.] 57 Geo. III. c. 39.—An Act to extend certain Provisions of the Acts of the Thirty-sixth and Fifty-second Years of the Reign of his present Majesty to Matters of Charity and Friendly Societies.—[20th June 1817.]**

WHEREAS it is expedient to extend the relief remedies provisions protections and indemnities made given and provided by the Act for the Relief of Persons equitably and beneficially entitled to or interested in the several Stocks and Annuities transferable at the Bank of England; and by the Act, intituled *An Act to extend the Provisions of an Act passed in the Thirty-sixth Year of the Reign of his present Majesty, for the Relief of Persons equitably entitled to Stocks and Annuities transferable at the Bank of England; and of an Act passed in this present Session for the Relief of Infant Survivors entitled to the like Stocks and Annuities to all other transferable Stocks and Funds* to certain cases herein specified, and not provided for by the said two Acts or by either of them: Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That from and after the passing of this Act the said Acts of Parliament and all the relief and remedies provisions protections and indemnities thereby provided shall extend and be deemed and taken to extend and the same are hereby declared and enacted to extend to all cases of petitions on which the Court of Chancery or the Lord High Chancellor or Commissioners of the Great Seal for the time being, or the Master of the Rolls or the Vice Chancellor of England for the time being, or the Court of Exchequer are by law authorised and empowered to grant relief and make summary orders without suit, either in matters of charity or relative to or for the better security or for the application receipt payment or transfer of any

**57 Geo. III.
c. 39.**

**36 Geo. 3. c. 90.
52 Geo. 3.
c. 158.**

Extending certain Provisions of recited Acts to Charity and Friendly Societies

No. V.

57 Geo. III.
c. 39.

of the funds thereof, or in matters relative to any benefit or friendly societies, or for the better security or for the application receipt payment or transfer of any of the funds thereof.

[No. VI.] 59 Geo. III. c. 128.—An Act for the further Protection and Encouragement of Friendly Societies, and for preventing Frauds and Abuses therein.—[12th July 1819.]

59 Geo. III.
c. 128.

WHEREAS the habitual reliance of poor persons upon parochial relief rather than upon their own industry tends to the moral deterioration of the people and to the accumulation of heavy burthens upon parishes; and it is desirable, with a view as well to the reduction of the assessments made for the relief of the poor as to the improvement of the habits of the people, that encouragement should be afforded to persons desirous of making provision for themselves or their families out of the fruits of their own industry: And whereas by the contribution of the savings of many persons to one common fund the most effectual provision may be made for the casualties affecting all the contributors; and it is therefore desirable to afford further facilities and additional security to persons who may be willing to unite in appropriating small sums from time to time to the formation of a common fund for the purposes aforesaid; and it is desirable to protect such persons against the effects of fraud or mis-calculation: And whereas an Act passed in the thirty-third year of his Majesty's reign, intituled *An Act for the Encouragement and Relief of Friendly Societies*: And whereas another Act passed in the thirty-fifth year of his Majesty's reign, intituled *An Act for more effectually carrying into Execution an Act made in the Thirty-third Year of the Reign of his present Majesty, intituled 'An Act for the Encouragement and Relief of Friendly Societies,' and for extending so much of the Powers thereof as relates to the framing Rules and Regulations for the better Management of the Funds of such Societies and the Appointment of Treasurers to other Institutions of a charitable Nature*: And whereas another Act passed in the forty-third year of his Majesty's reign, intituled *An Act for enabling Friendly Societies intended to be established under an Act passed in the Thirty-third Year of the Reign of his present Majesty to rectify Mistakes made in the Registry of their Rules*: And whereas another Act passed in the forty-ninth year of his Majesty's reign, intituled *An Act to amend an Act made in the Thirty-third Year of his present Majesty, for the Encouragement and Relief of Friendly Societies*: And whereas the provisions of those Acts have been found insufficient for their purposes, and great abuses have prevailed in many societies established under the authority of such Acts; Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That no society hereafter to be formed in *England or Wales* or the members thereof shall be entitled to the benefits or subject to the provisions of the said Acts unless such society shall have been constituted under the authority and according to the provisions of this Act.

33 Geo. 3.
c. 54.35 Geo. 3.
c. 111.43 Geo. 3.
c. 111.49 Geo. 3.
c. 125.

Future Soci-
eties to conform
to this Act.

The Rules and
Tables of
Friendly So-
cieties to be
confirmed at
the General
Quarter Ses-
sions.

II. And be it further enacted, That when any number of persons in *England or Wales* shall intend to form under the authority of this Act a friendly society or institution, whereby it is intended to provide by contribution on the principle of mutual insurance for the maintenance or assistance of the contributors thereto their wives or children in sickness infancy advanced age widowhood or any other natural state or contingency whereof the occurrence is susceptible of calculation by way of average, it shall be lawful for such persons to make application by memorial signed as herein-after mentioned to the justices assembled at the general quarter sessions of the peace or any adjournment thereof in and for the county riding or place of separate jurisdiction wherein such society

is about to be established, for a confirmation and approval of the rules of such intended institution and of the tables of payments and allowances to be adopted therein; and that if such justices or any committee by them appointed consisting of not less than three justices (of whom two shall be a *quorum*) shall after due examination thereof be satisfied that the contingencies for which it is intended to provide, whether specifically named in this Act or not, are such as according to the true meaning and intent of this Act are fit to be provided for by such society, and shall deem the rules and tables of such society, either in the form in which they shall have been originally exhibited or with such omissions additions or alterations as may be made therein by the said justices with the consent of the persons proposing to be trustees of such society, to be fit and proper, and shall be satisfied that the formation of such society will be useful and beneficial, regard being had to the existence of any other society already formed under wholesome rules within the same district for the like purposes; the said rules and tables so confirmed or amended shall be deposited and enrolled according to the provisions of the said first-mentioned Act, and a copy thereof, authenticated by the signature of two or more justices, shall be delivered to the trustees of such society, and shall thenceforward become the rules of such society and shall be binding on all parties concerned: Provided always, That such justices shall not confirm and allow any tables of payments or benefits or any rules dependent upon or connected with the calculation thereof, until it shall have been made appear to such justices that the said tables and rules are such as have been approved by two persons at the least, known to be professional actuaries or persons skilled in calculation, as fit and proper according to the most correct calculation of which the nature of the case will admit.

III. And be it further enacted, That it shall and may be lawful for the justices assembled at the general quarter sessions of the peace for any county or riding in *England* or *Wales* from time to time to make and publish such general rules for the formation and government of friendly societies or institutions under the authority of this Act as to such justices may appear fit, and to require that the rules of all societies thereafter established within such county or riding shall be made conformable to such general rules; and it shall also be lawful for such justices to declare that the rules proposed for the formation of such friendly societies or institutions which shall be made conformable to such general rules may be exhibited to and confirmed by any two or more justices holding petty sessions within the division wherein any such society is to be established; and in such case and subject always to the direction of such general rules published as aforesaid such justices in petty sessions shall have the like powers and their proceedings shall be subject to the like provisions in regard to the formation of friendly societies as are by this and the former Acts established in respect of the justices assembled in general or quarter sessions.

IV. And be it further enacted, That every memorial presented to the justices as aforesaid shall set forth the names residence and occupation of three persons at the least, of whom the majority shall be substantial householders assessed to the relief of the poor upon a sum not less than fifty pounds, which persons shall be trustees of such society or institution; and the signature of such intended trustees shall be affixed to such memorial; and such society shall from time to time in such manner as may have been prescribed by the rules thereof elect other persons duly qualified as aforesaid to fill such vacancies as may occur among such trustees; and in case such vacancy shall continue for more than three months so as to reduce the number of trustees below the number of three, it shall be lawful for the remaining trustees to nominate one other fit person to be the third trustee: Provided always, That no trustee shall be removed from his office without his own consent, except with the approbation of two or more justices in petty session assembled.

V. And be it further enacted, That when and as often as the trustees and persons having under the rules of any such society the management

No. VI.

59 Geo. III.
c. 128.

Proviso as to
Tables of Pay-
ments and Re-
sults.

Quarter Ses-
sions may pub-
lish general
Rules, and
Petty Sessions
may act
thereon.

Appointment of
Trustees.

Provision for
Alteration of
Rules.

No. VI.

50 Geo. III.
c. 128.Treasurer and
other Officers.Exemption
from Stamp
Duties.Property of
Societies vested
in Trustees.

thereof shall be desirous of making any alteration in or addition to the rules and tables allowed and deposited as aforesaid, it shall be lawful for them to make further application by memorial to the justices in general or petty sessions as aforesaid, such memorial being signed by the trustees or the major part thereof, and such application shall be dealt with by the said justices according to the provisions hereinbefore contained with respect to the allowance or alteration of the rules and tables proposed at the first establishment of such society in as far as the same are applicable thereto.

VI. And be it further enacted, That the trustees of each such society shall appoint one fit person or more to be treasurer or treasurers of such society; and shall require from such treasurer or treasurers such securities as the said trustees may from time to time deem necessary and proper; and no bond or other security to be given to or on account of any such society or in pursuance of this Act shall be charged or chargeable with any stamp duty whatever.

VII. And be it further enacted, That all monies goods chattels and effects whatever and all securities for money or other obligatory instruments and evidences or muniments and all other effects whatever, and all rights or claims belonging to or had by such institution shall be vested in the trustee or trustees of such institution for the time being for the use and benefit of such institution, and the respective depositors therein their respective executors or administrators according to their respective claims and interests; and after the death or removal of any trustee or trustees shall vest in the succeeding trustee or trustees for the same estate and interest as the former trustee or trustees had therein, and subject to the same trusts without any assignment or conveyance whatever, except the transfer of stocks and securities in the public funds of Great Britain; and also shall for all purposes of action or suit, as well criminal as civil in law or in equity in anywise touching or concerning the same, be deemed and taken to be and shall in every such proceeding (where necessary) be stated to be the property of the person or persons appointed to the office of trustee or trustees of such institution for the time being in his her or their proper name or names without further description; and such person or persons shall and they are hereby respectively authorised to bring or defend or cause to be brought or defended any action suit or prosecution criminal as well as civil in law or equity touching or concerning the property right or claim aforesaid of or belonging to or had by such institution; and such person or persons so appointed shall and may in all cases concerning the property right or claim aforesaid of such institution sue and be sued plead and be impleaded in his her or their proper name or names as trustee or trustees of such institution without other description; and no such suit action or prosecution shall be discontinued or abate by the death of such person or persons or his or their removal from the office of trustee or trustees, but the same shall and may be proceeded in by the succeeding trustee or trustees in the proper name or names of the person or persons commencing the same, any law usage or custom to the contrary notwithstanding; and such succeeding trustee or trustees shall pay or receive like costs as if the action or suit had been commenced in his or their name or names for the benefit of or to be reimbursed from the funds of such institution.

VIII. And be it further enacted, That it shall not be lawful to dissolve any society or institution established under the authority of this Act; nor shall any division of the funds thereof be made otherwise than in the ordinary course of proceeding according to the rules confirmed as aforesaid, without the consent of the trustees or the major part of them: Provided always, That no such consent of trustees shall be given, unless and until it shall have been certified by two or more professional actuaries or persons skilled in calculation as aforesaid, which persons shall have been approved as such by the justices as aforesaid, that according to the most correct calculation of which the case will admit, the interest of all the contributors to such institution and of all persons having claims thereon

Restrictions
upon Dissolu-
tion of Society,
or Division of
Funds.

Place of Meeting, and Powers and Duties of Members to be specified in the Rules.

Funds may be subscribed into Saving Bank ;

57 Geo. 3.
c. 180.

58 Geo. 3. c. 48.

or into Bank of England on Debentures ;

or vested in public Funds, or on real Security.

Limitation of Responsibility of Trustees.

Proceedings of the Trustees in case of Deficiency of Funds.

in possession or expectancy are by the proposed scheme of dissolution or division fairly dealt with and secured.

IX. And be it further enacted, That the rules of every society or institution formed under the authority of this Act shall specify the place or places at which it is intended such society or institution shall hold its meetings, and shall contain provisions with respect to the powers and duties of the members at large, and of such committees or officers as may be appointed for the management of the affairs of such society, subject always to the provisions of this Act with respect to the appointment and duties and powers of the trustees ; and such society or institution shall not be subject to the provisions and restrictions of the said Act of the thirty-third year of his present Majesty's reign, as to the appointment of committees or otherwise, with respect to the management of such society or institution.

X. And be it further enacted, That it shall be lawful for any society or institution established under the authority of this Act from time to time to subscribe the whole or any part of the funds of such society or institution into the funds of any institution which shall have taken the benefit of an Act of the fifty-seventh year of the reign of his present Majesty, intituled *An Act to encourage the Establishment of Banks for Savings in England*, subject to the several provisions contained in the said last-mentioned Act, or of an Act passed in the last session of Parliament to amend the said Act.

XI. And be it further enacted, That it shall be lawful for any society or institution established under the authority of this Act to pay directly into the Bank of England any sum or sums of money, not being less than fifty pounds, to the account of the commissioners for the reduction of the national debt, upon the declaration of the trustees of such society or institution or any two or more of them, that such monies belong exclusively to the society or institution for which such payment is intended to be made, whether such monies shall have been deposited therein before the passing of this Act or thereafter shall be deposited therein ; and the cashier or cashiers of the Bank of England are hereby required to receive all such monies, and place the same into a new and separate account to be raised in the name of the said commissioners for the time being in the books of the Bank of England, to be denominated ' The Fund for the Society or Institution established at A. in the county of B. under an Act of the fifty-ninth year of the reign of King George the Third ;' and all the clauses and provisions of an Act passed in the fifty-seventh year of his present Majesty's reign, (intituled *An Act to encourage the Establishment of Banks for Savings in England*,) with respect to the accounts of banks for savings, and the regulation of debentures certificates or orders concerning the same, shall be applicable to the monies so paid into the Bank of England under the authority of this Act, as if the same had been repeated therein.

XII. Provided always and be it further enacted, That nothing in this Act contained shall extend to prevent the trustees of any society formed under the authority thereof from investing any part of the funds of such society in any public stocks or funds established by the authority of Parliament, or from laying out the same upon real security at interest.

XIII. And be it further enacted, That the trustees of any society or institution established under the authority of this Act shall not be liable to make good any deficiency which may arise in the funds of such society, unless such persons shall have respectively declared by writing under their hands, deposited and registered in like manner with the rules of such society, that they are willing to be answerable ; and it shall be lawful for each of such persons or for such persons collectively, to limit his her or their responsibility to such sum as shall be specified in any such instrument in writing.

XIV. And be it further enacted, That when the trustees of any society formed under the authority of this Act shall be apprehensive that the funds of such society together with the sum (if any) for which persons having formed the said society shall have made themselves responsible as aforesaid, are likely to prove insufficient to make all the payments be-

No. VI.
59 Geo. III.
c. 128.

In Cases of
Complaint of
Widows and
Children Jus-
tices to have
Jurisdiction.

33 Geo. 3. c. 54.
and 49 Geo. 3.
c. 125. appli-
cable to this
Act.

coming due to the several parties interested according to the rules of such society, the said trustees shall forthwith state their apprehension and the grounds thereof to the justices in general or quarter sessions, or if the rules of such institution shall have been originally confirmed at the petty sessions then to the justices in such petty sessions; and it shall be lawful for such justices upon a full statement of the accounts and proceedings of such society, which the said trustees are hereby directed to furnish at the requisition of such committee, to make such order for the adjustment of the claims of all parties interested in the funds of such society as to them may appear fair and equitable: Provided always, That it shall be lawful for any person or persons who may think himself or themselves aggrieved by any such order of justices in petty sessions, to appeal therefrom to the justices assembled in the quarter sessions next ensuing after the date of such order, whose decision shall be final and conclusive.

XV. And whereas by the said Act of the forty-ninth year of his present Majesty's reign, no sufficient provision is made for the relief of widows and children of deceased members of friendly societies who may be aggrieved by the officers or members of the societies of which their husbands or parents were members; Be it further enacted, That justices of the peace shall have the like power and jurisdiction in cases of complaint made by or on behalf of such widows and children as they have under the said last-mentioned Act or under this Act in regard to the members of such societies themselves.

XVI. And be it further enacted, That all the provisions of the said Acts of the thirty-third and forty-ninth years of the reign of his present Majesty as to matters for which no other provision is made by this Act, shall be deemed so far as the same are not repugnant to this Act, applicable to all societies and institutions formed under the authority of this Act.

[No. VII.] 1 Geo. IV. c. 29.—An Act to enlarge the Powers of the Governors of the Foundling Hospital in Dublin.—[30th June 1820.]

1 Geo. 4. c. 29.
54 Geo. 3.
c. 128.

Governors, em-
powered to
make Orders
for suspending
Admissions in
all Cases, and
under any Con-
ditions, in their
Discretion.

Such Orders
not valid, un-
til approved by
Lord Lieute-
nant.

WHEREAS by an Act made in the fifty-fourth year of the reign of his late Majesty King George the Third, intituled *An Act to amend the several Acts for regulating the Foundling Hospital in Dublin*, it was amongst other things enacted, that it should be lawful for the governors of the said hospital or any three or more of them to make orders for suspending and to suspend and refuse in the cases and under the restrictions therein mentioned the admission of any children or child into the said hospital: And whereas it is expedient to enlarge the powers of the said governors in that respect on the terms hereinafter provided: Be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That from and after the passing of this Act it shall and may be lawful to and for the governors of the said Foundling Hospital or any three or more of them from time to time to make orders for suspending and to suspend for and during such time or times period or periods as they shall from time to time think proper the admission of infants into the said hospital; and also to make orders for refusing and to refuse the admission into the said hospital of any infant or of any class or description of infants at their discretion, or for annexing any condition or conditions which they shall think proper to the admission of any particular infant or of all infants or of any class or description of infants into the said hospital; any thing in the said recited Act or any other Act or Acts contained, or any law usage or custom to the contrary notwithstanding.

II. Provided always, and be it enacted, That no such order as aforesaid which shall relate to all infants or to any class or description of infants shall be deemed to be good valid and effectual or to be established as a rule, until the same shall have been approved of by the lord lieutenant or other chief governor or governors of Ireland for the time being.

[No. VIII.] 10 George IV. c. 56.—An Act to consolidate and amend the Laws relating to Friendly Societies.—[19th June 1829.]

No. VIII.
10 Geo. IV.
c. 56.

[This Act repeals all former Acts relative to *Friendly Societies*, but the 40th section allows Societies, inrolled at the passing thereof, *three years* to conform; consequently, during that period, unless they previously comply with the provisions of this Act, they will continue under the regulations of the former Acts. It may also happen, if any of such Societies should be dissolved without having conformed, questions may arise on these old Acts; they are therefore continued in the present edition.]

WHEREAS it is expedient to amend the laws relating to friendly societies, and to consolidate the same in one Act, and to make other provisions respecting friendly societies; be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That an Act passed in the thirty-third year of his late Majesty's reign, intituled *An Act for the Encouragement and Relief of Friendly Societies*; and also so much of an Act passed in the thirty-fifth year of his said late Majesty's reign, intituled *An Act for the more effectually carrying into execution an Act made in the Thirty-third Year of the Reign of His present Majesty, intituled 'An Act for the Encouragement and Relief of Friendly Societies,' and for extending so much of the Powers thereof as relates to the framing Rules and Regulations for the better Management of the Funds of such Societies, and the Appointment of Treasurers to other Institutions, of a charitable nature, as relates to friendly societies*; and also an Act passed in the Parliament of Ireland in the thirty-sixth year of his said late Majesty's reign, intituled *An Act for the Encouragement and Relief of Friendly Societies*; and also an Act passed in the forty-third year of his said late Majesty's reign, intituled *An Act for enabling Friendly Societies, intended to be established under an Act passed in the Thirty-third Year of the Reign of His present Majesty, to rectify Mistakes made in the Registry of their Rules*; and also an Act passed in the forty-ninth year of his said late Majesty's reign, to explain and render more effectual the said recited Act made in the Parliament of Ireland in the thirty-sixth year of his said late Majesty's reign; and also an Act passed in the forty-ninth year of his said late Majesty's reign, intituled *An Act to amend an Act made in the Thirty-third Year of his present Majesty, for the Encouragement and Relief of Friendly Societies*; and also an Act passed in the fifty-ninth year of his said late Majesty's reign, intituled *An Act for the further Protection and Encouragement of Friendly Societies, and for preventing Frauds and Abuses therein*; and also so much of an Act passed in the sixth year of the reign of his present Majesty, intituled *An Act for consolidating and amending the Laws relating to Conveyances and Transfers of Estates and Funds vested in Trustees who are Infants, Idiots, Lunatics, or Trustees of unsound Mind, or who cannot be compelled or refuse to act, and the Laws relating to Stocks and Securities belonging to Infants, Idiots, Lunatics, and Persons of unsound Mind*, as relates to friendly societies, for the better security, or for the application, receipt, payment, or transfer of any of the funds thereof; shall be and the same are hereby repealed, except so far as any of the said Acts repeal the whole or any part of any other Acts, and except as herein-after is excepted: Provided nevertheless, that such repeal shall not invalidate or affect any thing which has been done before the passing of this Act in pursuance of any of the said Acts.

II. And whereas certain friendly societies have been established in Great Britain and Ireland, for raising, by voluntary subscription of the members thereof, separate funds for the mutual relief and maintenance of the said members in sickness, old age, and infirmity; and it is expedient to give protection to such societies and the funds thereby established, and to afford encouragement to other persons to form the like societies; be it enacted, That it shall and may be lawful to and for any number of persons in Great Britain and Ireland to form themselves into and to

33 G. 3. c. 54.

35 G. 3. c. 111.

36 G. 3. (I.)

43 G. 3. c. 111.

49 G. 3. c. 58.

49 G. 3. c. 125.

59 G. 3. c. 128.

6 G. 4. c. 74.
in part repealed
except as herein
stated.

Any Number of
Persons may
form themselves
into a Society,
and raise a Fund
for their mutual
Benefit,
and make
Rules &c.

No. VIII.
10 Geo. IV.
c. 56.

Power to alter
and amend
Rules.

Societies, in
their Rules to
declare the
Purpose of their
Establishment,
&c.

Rules of the
Society to be
submitted to a
Barrister or
other Person,
by whom they
are to be cer-
tified;

and deposited
with the Clerk
of the Peace.

establish a society for the purpose of raising from time to time, by subscriptions of the several members of every such society, or by voluntary contributions, or by donations, a stock or fund for the mutual relief and maintenance of all and every the members thereof, their wives or children or other relations, in sickness, infancy, advanced age, widowhood, or any other natural state of contingency whereof the occurrence is susceptible of calculation by way of average; and to and for the several members of each society from time to time to assemble together, and to make ordain and constitute such proper and wholesome rules for the better government and guidance of the same as to the major part of the members of such society so assembled together shall seem meet, so as such rules shall not be repugnant to the laws of this realm, nor any of the express provisions or regulations of this Act; and to impose and inflict such reasonable fines and forfeitures upon the several members of any such society who shall offend against such rules as shall be just and necessary for duly enforcing the same, to be respectively paid to such uses, for the benefit of such society, as such society by such rules shall direct; and also from time to time to alter and amend such rules as occasion shall require, or to annul and repeal the same, and to make new rules in lieu thereof, under such restrictions as are in this Act contained.

III. And be it further enacted, That every such society so to be established as aforesaid, before any of the rules thereof shall be confirmed by the justices in the manner herein-after directed, shall, in or by one or more of the rules to be confirmed by such justices, declare all and every the intents and purposes for which such society is intended to be established, and shall also in and by such rules direct all and every the uses and purposes to which the money which shall from time to time be subscribed paid or given to or for the use or benefit of such society, or which shall arise therefrom, or in anywise shall belong to such society, shall be appropriated and applied, and in what shares and proportions and under what circumstances any member of such society, or other person, shall or may become entitled to the same or any part thereof; provided that the application thereof shall not in anywise be repugnant to the uses intents and purposes of such society, or any of them, so to be declared as aforesaid; and all such rules, during the continuance of the same, shall be complied with and enforced; and the monies so subscribed paid or given, or so arising, to or for the use or benefit of such society, or belonging thereto, shall not be diverted or misapplied either by the treasurer trustee or any other officer or member of such society entrusted therewith, under such penalty or forfeiture as such society shall by any rule impose and inflict for such offence.

IV. And be it further enacted, That a transcript fairly written on paper or parchment of all such rules, signed by three members, and countersigned by the clerk or secretary, with all convenient speed after the same shall be made altered or amended, and so from time to time after every making altering or amending thereof shall be submitted, in *England and Wales* and *Berwick-upon-Tweed*, to the barrister at law for the time being appointed to certify the rules of saving banks, and in *Scotland* to the lord-advocate or any of his deputies, and in *Ireland* to such barrister as may be appointed by his Majesty's attorney-general in *Ireland*, for the purpose of ascertaining whether the said rules of such society, or alteration or amendment thereof, are in conformity to law and to the provisions of this Act; and that the said barrister or advocate shall give a certificate thereof, or point out in what part or parts they are repugnant thereto; and that the fee payable to such barrister or advocate for perusing the rules, or alterations or amendments of the rules, of each respective society, and giving such certificate as aforesaid, shall not at any one time exceed the sum of one guinea, which, together with the expence of conveying the rules to and from the said barrister or advocate, shall be defrayed by each society respectively; and such transcript, when certified by the said barrister or advocate, shall be deposited with the clerk of the peace for the county wherein such society shall be formed, and by him laid before the justices for such county at the general quarter ses-

sions, or adjournment thereof, next after the time when such transcript shall have been so certified and returned as aforesaid; and the justices then and there present are hereby authorized and required to allow and confirm the same; and such transcript shall be filed by such clerk of the peace with the rolls of the sessions of the peace in his custody; and a certificate of the enrolment thereof shall, within fourteen days after the end of the said sessions or adjournment thereof, be signed by such clerk of the peace on a duplicate copy to be provided by and returned to such society, without fee or reward: Provided always, that nothing herein contained shall be construed to require any rules alterations or amendments thereof, to be submitted to such barrister or advocate, if the same, when deposited with the clerk of the peace, are accompanied with an affidavit of being a copy of any of the rules alterations or amendments of any other society which shall have been already enrolled under the provisions of this Act in the same county.

V. Provided always, and be it further enacted, That in case any such barrister or advocate shall refuse to certify all or any of the rules so to be submitted for his perusal and examination, it shall then be lawful for any such society to submit the same to the court of quarter sessions, together with the reasons assigned by the said barrister or advocate, in writing, for any such rejection or disapproval of any one or more such rules; and that the justices at their said quarter sessions shall and may, if they think fit, confirm and allow the same, notwithstanding any such rejection or disapproval by any such barrister or advocate.

VI. Provided always, and be it further enacted, That no rules of any society hereafter to be formed shall be allowed unless it shall appear to the justices to whom the same are tendered that the tables of the payment to be made by the members, and of the benefits to be received by them, may be adopted with safety to all parties concerned.

VII. And be it further enacted, That no such society as aforesaid shall have the benefit of this Act, unless all the rules for the management thereof shall be entered in a book to be kept by an officer of such society appointed for that purpose, and which book shall be open at all seasonable times for the inspection of the members of such society, and unless all such rules shall be fairly transcribed, and such transcript deposited with the clerk of the peace for the county wherein such society shall be established as aforesaid; but nevertheless nothing contained herein shall extend to prevent any alteration in or amendment of any such rules so entered and deposited and filed as aforesaid, or repealing or annulling the same, or any of them, in the whole or in part, or making any new rules for the management of such society, in such manner as by the rules of such society shall from time to time be provided; but such new rules, or such alterations in or amendments of former rules, or any order annulling or repealing any former rules in the whole or in part, shall not be in force until the same respectively shall be entered in such book as aforesaid, and certified, when necessary, by such barrister or advocate as aforesaid, and until a transcript thereof shall be deposited with such clerk of the peace as aforesaid, who shall file and certify the same as aforesaid; and that no such rule, or alteration in or amendment of any former rule, shall be binding or have any force or effect until the same shall have been confirmed by such justices, and file as aforesaid.

VIII. And be it further enacted, That all rules from time to time made and in force for the management of such society as aforesaid, and duly entered in such book as aforesaid, and confirmed by the justices as aforesaid, shall be binding on the several members and officers of such society, and the several contributors thereto, and their representatives, all of whom shall be deemed and taken to have full notice thereof by such entry and contribution as aforesaid; and the entry of such rules in such book as aforesaid, or the transcript thereof deposited with such clerk of the peace as aforesaid, or a true copy of such transcript, examined with the original and proved to be a true copy, shall be received as evidence of such rules respectively in all cases; and no certiorari, suspension, advocacy, reduction, or other legal process shall be brought

No. VIII.
10 Geo. IV.
c. 56.

Rules, when certified, to be confirmed by Justices at Sessions, and a Duplicate certified by Clerk of the Peace. When not necessary to submit Rules to Barrister.

Manner of Proceeding in case Barrister shall refuse to certify.

Rules not to be allowed unless the Justices are satisfied with the Tables.

No Society entitled to the Benefit of this Act, unless their Rules have been confirmed.

Rules, when entered and deposited, to be binding on Members and Depositors. Copy of Transcript to be received in Evidence.

No. VIII.
10 Geo. IV.
c. 56.

No confirmed
Rule to be al-
tered but at a
General Meet-
ing of the So-
ciety, &c.

Rules shall
specify Place of
Meeting and
Duties of
Officers.

Societies may
alter Place of
Meeting.

Society may ap-
point Officers.

Securities to be
given for Offi-
cers of Trust, if
required.

Treasurer or
Trustees to
give Bond to
the Clerk of the
Peace.

or allowed to remove any such rules into any of his Majesty's Courts of Record; and every copy of any such transcript deposited with any clerk of the peace as aforesaid shall be made without fee or reward, except the actual expence of making such copy.

IX. And be it further enacted, That no rule confirmed by the justices of the peace in manner aforesaid shall be altered rescinded or repealed, unless at a general meeting of the members of such society as aforesaid, convened by public notice, written or printed, signed by the secretary or president or other principal officer or clerk of such society, in pursuance of a requisition for that purpose by seven or more of the members of such society, which said requisition and notice shall be publicly read at the two usual meetings of such society to be held next before such general meeting for the purpose of such alteration or repeal, unless a committee of such members shall have been nominated for that purpose at a general meeting of the members of such society convened in manner aforesaid, in which case such committee shall have the like power to make such alterations or repeal, and unless such alterations or repeal shall be made with the concurrence and approbation of three-fourths of the members of such society then and there present, or by the like proportion of such committee as aforesaid, if any shall have been nominated for that purpose.

X. And be it further enacted, That the rules of every society formed under the authority of this Act shall specify the place or places at which it is intended such society shall hold its meetings, and shall contain provisions with respect to the powers and duties of the members at large, and of such committees or officers as may be appointed for the management of the affairs of such society: Provided always, that it shall and may be lawful for any such society to alter their place or places of meeting whenever they may consider it necessary, upon giving notice thereof in writing to the clerk of the peace for the county within which such society shall be held, the said notice to be given within seven days before or after such removal, and signed by the secretary or other principal officer, and also by three or more of the members of the said society; and provided that the place or places at which such society intend to hold their meetings shall be situate within the county in which the rules of the said society are enrolled.

XI. And be it further enacted, That every such society shall and may from time to time, at any of their usual meetings, or by their committee, if any such shall be appointed for that society, elect and appoint such person into the office of steward, president, warden, treasurer, or trustee of such society, as they shall think proper, and also shall and may from time to time elect and appoint such clerks and other officers as shall be deemed necessary to carry into execution the purposes of such society, for such space of time and for such purposes as shall be fixed and established by the rules of such society, and from time to time to elect and appoint others in the room of those who shall vacate or die; and such treasurer trustee and all and every other officer or other person whatever who shall be appointed to any office in anywise touching or concerning the receipt management or expenditure of any sum of money collected for the purpose of any such society, before he she or they shall be admitted to take upon him her or them the execution of any such office or trust, (if required so to do by the rules of such society to which such officer shall belong,) shall become bound in a bond, according to the form prescribed in the schedule to this Act annexed, with two sufficient sureties, for the just and faithful execution of such office or trust, and for rendering a just and true account according to the rules of such society, and in all matters lawful to pay obedience to the same, in such penal sum of money as by the major part of such society at any such meeting as aforesaid shall be thought expedient, and to the satisfaction of such society; and that every such bond to be given by or on the behalf of such treasurer or trustee, or of any other person appointed to any other office or trust, shall be given to the clerk of the peace of the county where such society shall be established, for the time being, without fee or reward; and in case of

forfeiture it shall be lawful to sue upon such bond in the name of the clerk of the peace for the time being for the use of the said society, fully indemnifying and saving harmless such clerk of the peace from all costs and charges in respect of such suit; provided that such bond shall have in *Scotland* the same force and effect as a bond in the form in use in *Scotland* containing a clause of registration.

XII. And be it further enacted, That every such society shall and may from time to time elect and appoint any number of the members of such society to be a committee, the number thereof to be declared in the rules of every such society, and shall and may delegate to such committee all or any of the powers given by this Act to be executed, who, being so delegated, shall continue to act as such committee, for and during such time as they shall be appointed, for such society, for general purposes, the powers of such committee being first declared in and by the rules of such society, confirmed by the justices of the peace at their sessions, and filed in the manner herein-before directed; and in all cases where a committee shall be appointed for any particular purpose, the powers delegated to such committee shall be reduced into writing and entered into a book by the secretary or clerk of such society, and a majority of the members of such committee shall at all times be necessary to concur in any Act of such committee; and such committee shall, in all things delegated to them, act for and in the name of such society; and all Acts and orders of such committee, under the powers delegated to them, shall have the like force and effect as the Acts and orders of such society at any general meeting thereof could or might have had in pursuance of this Act: Provided always, that the transactions of such committee shall be entered in a book belonging to such society, and shall be from time to time and at all times subject and liable to the review allowance or disallowance and controul of such society, in such manner and form as such society shall by their general rules, confirmed by the justices and filed as aforesaid, have directed and appointed, or shall in like manner direct and appoint.

XIII. And be it further enacted, That it shall and may be lawful to and for the treasurer or trustee for the time being of any such society, and he she and they is and are hereby authorized and required, from time to time, by and with the consent of such society, to be had and testified in such manner as shall be directed by the general rules of such society, to lay out or dispose of such part of all such sums of money as shall at any time be collected given or paid to and for the beneficial ends intents and purposes of such society, as the exigencies of such society shall not call for the immediate application or expenditure of, either on real or heritable securities or heritable property, to be approved of as aforesaid, (such securities to be taken in the name of such treasurer or trustee for the time being,) or to invest the same in the public stocks or funds savings banks or government securities, or in any of the chartered banks in *Scotland*, or in the Bank of the Commercial Banking Company of *Scotland*, and not otherwise, in the proper name of such treasurer or trustee; and from time to time, with such consent as aforesaid, to alter and transfer such securities and funds, and to make sale thereof respectively; and that all the dividends interests and proceeds which shall from time to time arise from the monies so laid out or invested as aforesaid shall from time to time be brought to account by such treasurer or trustee, and shall be applied to and for the use of such society, according to the rules thereof.

XIV. And be it further enacted, That every person who shall have or receive any part of the monies effects or funds of or belonging to any such society, or shall in any manner have been or shall be entrusted with the disposal management or custody thereof, or of any securities, books, papers, or property relating to the same, his or her executors administrators and assigns respectively, shall, upon demand made, or notice in writing given or left at the last or usual place of residence of such persons, in pursuance of any order of such society, or committee to be appointed as aforesaid, for that purpose, give in his or her account at the usual meeting of such society, or to such committee thereof as aforesaid, to be examined and allowed or disallowed by such society or committee thereof, and shall,

No. VIII.
10 Geo. IV.
c. 56.

Appointment of
Committees.

Powers of
Standing Com-
mittees to be
declared in the
Rules of the
Society, and of
particular ones
entered in a
Book.

Committee
controllable by
Society.

Treasurer or
Trustees to lay
out Surplus of
Contributions;

and to bring the
Proceeds to
account.

Treasurers,
&c., to render
Accounts, and
pay over Bal-
ances, &c.

No. VIII.
10 Geo. IV.
c. 56.

and in case of
Neglect, Appli-
cation may be
made to the
Court of Ex-
chequer, &c.

on the like demand or notice, pay over all the monies remaining in his or her hands, and assign and transfer or deliver all securities and effects, books, papers, and property, taken or standing in his or her name as aforesaid, or being in his or her hands or custody, to the treasurer or trustee for the time being, or to such other person as such society or committee thereof shall appoint; and in case of any neglect or refusal to deliver such account, or to pay over such monies, or to assign transfer or deliver such securities and effects, books, papers, and property, in manner aforesaid, it shall and may be lawful to and for every such society, in the name of the treasurer or trustee or other principal officer thereof, as the case may be, to exhibit a petition in the Court of Exchequer in *England* or *Ireland*, or in the Court of Session in *Scotland*, or the Courts of Great Sessions in *Wales* respectively, who shall and may proceed thereupon in a summary way, and make such order therein, upon hearing all parties concerned, as to such court in their discretion shall seem just, which order shall be final and conclusive; and all assignments sales and transfers made in pursuance of such order shall be good and effectual in law to all intents and purposes whatsoever.

Where Trustees, &c., are out of Jurisdiction of Court, or it be uncertain whether they are alive, or they refuse to convey, &c., the Court of Exchequer may appoint a Person to convey.

XV. And be it further enacted, That when and so often as any person seised or possessed of any lands tenements or hereditaments, or other property, or any estate or interest therein, as a trustee of any such society, shall be out of the jurisdiction of or not amenable to the process of the Court of Exchequer in *England* or *Ireland*, or the Court of Session in *Scotland*, or of the Court of Great Sessions in *Wales*, or shall be idiot lunatic or of unsound mind, or it shall be unknown or uncertain whether he or she be living or dead, or such person shall refuse to convey or otherwise assure such lands tenements hereditaments or property, or estate or interest, to the person duly nominated as trustee of such society in their stead, either alone or together with any continuing trustee, as occasion shall require, then and in every or any such case it shall be lawful for the judges of the said courts respectively to appoint such person, as to such court shall seem meet, on behalf and in the name of the person seised or possessed as aforesaid, to convey, surrender, release, assign, or otherwise assure the said lands, tenements, hereditaments, or property, or estate, or interest, to such trustee so duly nominated as aforesaid; and every such conveyance, release, surrender, assignment, or assurance shall be as valid and effectual to all intents and purposes as if the person being out of the jurisdiction or not amenable to the process of the said courts, or not known to be alive, or having refused, or as if the person being idiot lunatic or of unsound mind, had been at the time of the execution thereof of sane mind memory and understanding, and had by himself or herself executed the same.

When Trustees shall be absent, &c., Courts may order Stock to be transferred and Dividends paid.

XVI. And be it further enacted, That when and as often as it shall happen that all and every person in whose name any part of the several stocks annuities and funds transferrable or which hereafter shall be made transferrable at the Bank of *England*, or in the books of the governor and company of the Bank of *England*, is or shall be standing as a trustee of any such society, shall be absent, out of the jurisdiction or not amenable to the process of the said Court of Exchequer in *England* or *Ireland*, or the Court of Session in *Scotland*, or the Courts of Great Session in *Wales*, or shall be a bankrupt insolvent or lunatic, or it shall be uncertain or unknown whether such trustee is living or dead, that then and in such case it shall and may be lawful to and for the judges of the said courts respectively to order and direct that the accountant-general, or the secretary or deputy secretary, or other proper officer for the time being of the governor and company of the Bank of *England*, do transfer in the book of the said company such stock annuities or funds standing as aforesaid, to and into the name of such person as such society may appoint, and also pay over to such person as aforesaid the dividends of such stock annuities or funds; and when and as often as it shall happen that one or more only, and not all or both of such trustees as aforesaid, shall be so absent, or not amenable to such process as aforesaid, or a bankrupt insolvent or lunatic, or it be uncertain or unknown whether any one or more

of such trustees is or are living or dead, that then, and in all and every such last-mentioned case and cases, it shall and may be lawful to and for the judges of the said courts respectively to order and direct that the other and others of such trustees who shall be forthcoming and ready and qualified to act do transfer such stock annuities or funds to and into the name of such person as aforesaid, and also that such forthcoming trustee do also receive and pay over the dividends of such stock annuities or funds, as such society shall direct; and that all such transfers and payments so made shall be and are hereby declared to be valid and effectual to all intents and purposes whatsoever, any former statute, law, usage, or custom to the contrary thereof in anywise notwithstanding.

XVII. And be it further enacted, That no fee, reward, emolument, or gratuity whatsoever shall be demanded taken or received by any officer or minister of such courts for any matter or thing done in such courts in pursuance of this Act; and that upon the presenting of any such petition it shall be lawful for the judges of the said courts respectively to assign counsel learned in the law, and to appoint a clerk or practitioner of such court, to advise and carry on such petition on the behalf of such society, who are hereby respectively required to do their duties therein without fee or reward.

XVIII. Provided always, and be it further enacted, That in all cases in which orders shall be made by any of the courts aforesaid for the transfer of stocks or funds transferrable at the Bank of *England*, the persons to be named in such orders respectively for making such transfers shall be the secretary deputy secretary or accountant-general of the governor and company of the bank of *England* for the time being, or one of them, except in cases where one or more of the trustees in whose name such stocks or funds shall stand shall be ordered to transfer the same without the concurrence of any other or others of such trustees; any thing herein contained to the contrary thereof in anywise notwithstanding.

XIX. And be it further enacted, That this Act shall be and is hereby declared to be a full and complete indemnity and discharge to the governor and company of the Bank of *England*, and their officers and servants, for all Acts and things done or permitted to be done pursuant thereto, and that such Acts and things shall not be questioned or impeached in any court of law or equity to their prejudice or detriment.

XX. And be it further enacted, That if any person appointed to any office by any such society, and being entrusted with or having in his or her hands or possession, by virtue of his or her said office, any monies or effects belonging to such society, or any deeds or securities relating to the same, shall die, or become a bankrupt or insolvent, his or her executors or administrators or assignees, or other persons having legal right, shall, within forty days after demand made by the order of any such society or committee thereof, or the major part of them assembled at any meeting thereof, deliver over all things belonging to such society to such person as such society shall appoint, and shall pay, out of the estates assets or effects of such person, all sums of money remaining due which such person received by virtue of his or her said office, before any of his or her other debts are paid or satisfied; and all such assets estates and effects shall be bound to the payment and discharge thereof accordingly.

XXI. And be it further enacted, That all real and heritable property, monies, goods, chattels, and effects whatever, and all titles securities for money or other obligatory instruments and evidences or muniments, and all other effects whatever, and all rights or claims belonging to or had by such society, shall be vested in the treasurer or trustee of such society for the time being, for the use and benefit of such society and the respective members thereof, their respective executors or administrators, according to their respective claims and interests; and after the death or removal of any treasurer or trustee shall vest in the succeeding treasurer or trustee, for the same estate and interest as the former treasurer or trustee had therein, and subject to the same trusts, without any assignment or conveyance whatever, except the transfer of stocks and securities in the public funds of *Great Britain and Ireland*; and also shall, for all purposes of

No Fee to be taken for any Proceedings in such Courts, &c.

Who shall be named in the Orders of the Court for making Transfers.

Act to be an Indemnity to the Bank.

Executors, &c., to pay Money due to Societies before any other Debts.

Effects of Societies to be vested in the Trustees or Treasurers for the Time being, who may bring and defend Actions, &c.

No. VIII.
10 Geo. IV.
c. 56.

action or suit, as well criminal as civil, in law or in equity, in anywise touching or concerning the same, be deemed and taken to be, and shall in every such proceeding (where necessary) be stated to be, the property of the person appointed to the office of treasurer or trustee of such society for the time being, in his or her proper name, without further description; and such person shall and he or she is hereby, respectively authorized to bring or defend, or cause to be brought or defended, any action suit or prosecution, criminal as well as civil, in law or in equity, touching or concerning the property right or claim aforesaid of or belonging to or had by such society; provided such person shall have been thereunto duly authorized by the consent of the majority of members present at any meeting of the society or committee thereof; and such person so appointed shall and may, in all cases concerning the property right or claim aforesaid of such society, sue and be sued, plead and be impleaded, in his or her proper name, as treasurer or trustee of such society, without other description; and no such suit action or prosecution shall be discontinued or abate by the death of such person, or his or her removal from the office of treasurer or trustee, but the same shall and may be proceeded in by the succeeding treasurer or trustee in the proper name of the person commencing the same, any law usage or custom to the contrary notwithstanding; and such succeeding treasurer or trustee shall pay or receive like costs as if the action or suit had been commenced in his or her name, for the benefit of or to be reimbursed from the funds of such society.

Limitation of
Responsibility
of Treasurers
or Trustees.

XXII. And be it further enacted, That the treasurer or trustee, or any other officer of any society established under the authority of this Act, shall not be liable to make good any deficiency which may arise in the funds of such society, unless such persons shall have respectively declared by writing under their hands, deposited and registered in like manner with the rules of such society, that they are willing so to be answerable; and it shall be lawful for each of such persons, or for such persons collectively, to limit his her or their responsibility to such sum as shall be specified in any such instrument or writing: Provided always, that the said treasurer trustee and every other the officer of any such society, shall be and they are hereby declared to be personally responsible and liable for all monies actually received by him her or them on account of or to and for the use of the said society.

Treasurer, &c.,
liable for Mo-
ney actually
received.

Payment to
Persons appear-
ing to be next
of Kin declared
valid.

XXIII. And be it further enacted, That whenever the trustees of any society established under this Act, at any time after the decease of any member, have paid and divided any sum of money to or amongst any person or persons who shall at the time of such payment appear to such trustees to be entitled to the effects of any deceased intestate member, the payment of any such sum or sums of money shall be valid and effectual with respect to any demand of any other person or persons as next of kin of such deceased intestate member, or as the lawful representative or representatives of such member, against the funds of such society, or against the trustees thereof; but nevertheless such next of kin or representatives shall have remedy for such money so paid as aforesaid against the person or persons who shall have received the same.

For Payment of
Sums not ex-
ceeding 20*l*.
where Members
die intestate.

XXIV. And be it further enacted, That in case any member of any society shall die, who shall be entitled to any sum not exceeding twenty pounds, it shall be lawful for the trustees or treasurer of such society, and they are hereby authorized and permitted, if such trustees or treasurer shall be satisfied that no will was made and left by such deceased member, and that no letters of administration or confirmation will be taken out of the funds goods and chattels of such depositor, to pay the same at any time after the decease of such member according to the rules and regulations of the said institution, and in the event of there being no rules and regulations made in that behalf, then the said trustees or treasurer are hereby authorized and permitted to pay and divide the same to and amongst the person or persons entitled to the effects of the deceased intestate, and that without administration in *England or Ireland*, and without confirmation in *Scotland*.

Justices may
hear Cases of
Fraud, and
punish by Fine
or Imprison-
ment.

XXV. And be it further enacted, That for the more effectually preventing fraud and imposition on the funds of such societies, if any officer member or any other person being or representing himself or herself to be a member of such society, or the nominee, executor, administrator, or assignee of any member of such society, or any other person whatever, shall in or by any false representation or imposition fraudulently obtain possession of the monies of such society, or any part thereof, or, having in his or her possession any sum of money belonging to such society, shall fraudulently withhold the same, and for which offence no especial provision is made in the rules of such society, it shall be lawful for any one justice of the peace residing within the county within which such society shall be held, upon complaint made on oath or affirmation by an officer of such society appointed for that purpose to summon such person against whom such complaint shall be made to appear at a time and place to be named in such summons; and upon his or her appearance, or, in default thereof, upon due proof, upon oath or affirmation, of the service of such summons, it shall and may be lawful for any two justices residing within the county aforesaid to hear and determine the said complaint according to the rules of the said society, confirmed as directed by this Act; and, upon due proof of such fraud, the said justices shall convict the said party, and award double the amount of the money so fraudulently obtained or withheld to be paid to the treasurer, to be applied by him to the purposes of the society so proved to have been imposed upon and defrauded, together with such costs as shall be awarded by the said justices, not exceeding the sum of ten shillings; and in case such person against whom such complaint shall be made shall not pay the sum of money so awarded to the person and at the time specified in the said order, such justices are hereby required, by warrant under their hands and seals, to cause the same to be levied by distress and sale of the goods of such person on whom such order shall have been made, or by other legal proceeding, together with such costs as shall be awarded by the said justices, not exceeding the sum of ten shillings, and also the costs and charges attending such distress and sale or other legal proceeding, returning the overplus (if any) to the owner; and, in default of such distress being found, the said justices of the peace shall commit such person so proved to have offended to the common gaol or house of correction, there to be kept to hard labour for such a period, not exceeding three calendar months, as to them shall seem fit: Provided nevertheless, that nothing herein contained shall prevent the said society from proceeding by indictment or complaint against the party complained of; and provided also, that no party shall be proceeded against by indictment or complaint, if a previous conviction has been obtained for the same offence under the provisions of this Act.

XXVI. And be it further enacted, That it shall not be lawful for any such society, by any rule at any general meeting, or otherwise, to dissolve or determine such society, so long as the intents or purposes declared by such society, or any of them, remain to be carried into effect, without obtaining the votes of consent of five-sixths in value of the then existing members of such society, to be ascertained in manner herein-after mentioned, and also the consent of all persons then receiving or then entitled to receive relief from such society, either on account of sickness age or infirmity, to be testified under their hands individually and respectively; and for the purpose of ascertaining the votes of such five-sixths in value, every member shall be entitled to one vote, and an additional vote for every five years that he may have been a member; provided also, that no one member shall have more than five votes in the whole; and in all cases of dissolution, the intended appropriation or division of the funds or other property of such society shall be fairly and distinctly stated in the proposed plan of dissolution, prior to such consent being given; nor shall it be lawful for such society by any rule to direct the division or distribution of such stock or fund, or any part thereof, to or amongst the several members of such society, other than for carrying into effect the general intents and purposes of such society, declared by them, and confirmed by

Proceedings
necessary for
the Dissolution
of any Society.

Stock not divi-
sible but for ge-
neral Purposes
of the Society.

No. VIII:
10 Geo. IV.
c. 56.

Penalties for
illegal Dissolu-
tion or Division
of Funds.

Rules to be
made directing
how Disputes
shall be settled.

Appointment of
Arbitrators.

Justices shall
enforce Compli-
ance with the
Decision of
Arbitrators.

the justices of the peace as aforesaid, according to the directions of this Act; but that all such rules for the dissolution or determination of any such society, without such consent as aforesaid, or for the distribution or division of the stock or fund of such society, contrary to the rules which shall have been confirmed by the said justices at their sessions, and filed in pursuance of this Act, shall be void and of none effect; and in the event of such division or misappropriation of the funds of such society, without the consent hereby declared to be requisite, the trustee or other officer or person aiding or abetting therein shall be liable to the like penalties as are herein-before provided for in cases of fraud.

XXVII. Provided always, and be it further enacted, That provision shall be made by one or more of the rules of every such society, to be confirmed as required by this Act, specifying whether a reference of every matter in dispute between any such society, or any person acting under them, and any individual member thereof, or person claiming on account of any member, shall be made to such of his Majesty's justices of the peace as may act in and for the county in which such society may be formed, or to arbitrators to be appointed in manner herein-after directed; and if the matter so in dispute shall be referred to arbitration, certain arbitrators shall be named and elected at the first meeting of such society, or general committee thereof, that shall be held after the enrolment of its rules, none of the said arbitrators being beneficially interested, directly or indirectly, in the funds of the said society, of whom a certain number, not less than three shall be chosen by ballot in each such case of dispute, the number of the said arbitrators and mode of ballot being determined by the rules of each society respectively, the names of such arbitrators shall be duly entered in the book of the said society in which the rules are entered as aforesaid; and in case of the death, or refusal or neglect of any or all of the said arbitrators to act, it shall and may be lawful to and for the said society, or general committee thereof, and they are hereby required, at their next meeting, to name and elect one or more arbitrator or arbitrators as aforesaid to act in the place of the said arbitrator or arbitrators so dying, or refusing or neglecting to act as aforesaid; and whatever award shall be made by the said arbitrators, or the major part of them, according to the true purport and meaning of the rules of such society, confirmed by the justices according to the directions of this Act, shall be in the form to this Act annexed, and shall be binding and conclusive on all parties, and shall be final, to all intents and purposes, without appeal, or being subject to the controul of one or more justices of the peace, and shall not be removed or removable into any court of law, or restrained or restrainable by the injunction of any court of equity; and should either of the said parties in dispute refuse or neglect to comply with or conform to the decision of the said arbitrators, or the major part of them, it shall and may be lawful for any one justice of the peace residing within the county within which such society shall be held, upon good and sufficient proof being adduced before him of such award having been made, and of the refusal of the party to comply therewith, upon complaint made by or on behalf of the party aggrieved, to summon the person against whom such complaint shall be made to appear at a time and place to be named in such summons; and upon his or her appearance, or in default thereof, upon due proof, upon oath, of the service of such summons, any two justices of the peace may proceed to make such order thereupon as to them may seem just; and if the sum of money so awarded, together with a sum for costs not exceeding the sum of ten shillings, as to such justices shall seem meet, shall not be immediately paid, then such justices shall, by warrant under their hands and seals, cause such sum and costs as aforesaid to be levied by distress or by distress and sale of the monies, goods, chattels, securities, and effects belonging to the said party or to the said society, or other legal proceeding, together with all further costs and charges attending such distress and sale or other legal proceeding, returning the overplus (if any) to the said party, or to the said society, or to one of the treasurers or trustees thereof; and in default of such distress being found, or such other legal proceeding being ineffectual, then to be levied by distress and

sale of the proper goods of the said party, or of the officer of the said society, so neglecting or refusing as aforesaid, by other legal proceedings, together with such further costs and charges as aforesaid, returning the overplus (if any) to the owner: Provided always, that whatever sums shall be paid by any such officer, so levied on his or her property or goods in pursuance of the award of arbitrators or order of any justices, shall be repaid, with all damages accruing to him or her, by and out of the monies belonging to such society, or out of the first monies which shall be thereafter received by such society.

XXVIII. And be it further enacted, That if by the rules of any such society it is directed that any matter in dispute as aforesaid shall be decided by justices of the peace, it shall and may be lawful for any such justice, on complaint being made to him of any refusal or neglect to comply with the rules of such society by any member or officer thereof, to summon the person against whom such complaint shall be made to appear at the time and place to be named in such summons; and upon his or her appearance, or in default thereof, upon due proof, on oath or affirmation, of the service of such summons, it shall and may be lawful for any two justices to proceed to hear and determine the said complaint according to the rules of the said society; and in case the said justices shall adjudge any sum of money to be paid by such person against whom such complaint shall be made, and such person shall not pay such sum of money to the person and at the time specified by such justices, they shall proceed to enforce their award in the manner herein-before directed to be used in case of any neglect to comply with the decision of the arbitrators appointed under the authority of this Act.

XXIX. And be it further enacted, That every sentence order and adjudication of any justices under this Act shall be final and conclusive to all intents and purposes, and shall not be subject to appeal, and shall not be removed or removable into any court of law, or restrained or restrainable by the injunction of any court of equity, and that no suspension adjournment or reduction shall be competent.

XXX. And be it further enacted, That it shall be lawful for any society established under the authority of this Act from time to time to subscribe the whole or any part of the funds of such society into the funds of any institution which shall have taken the benefit of an Act passed in the last session of Parliament, intituled *An Act to consolidate and amend the Laws relating to Savings Banks*, subject to the provisions in the said last-recited Act contained relating to friendly societies.

XXXI. And be it further enacted, That it shall be lawful for any society established under authority of this Act to pay directly into the Bank of England any sum of money not being less than fifty pounds, to the account of the commissioners for the reduction of the national debt, upon the declaration of the treasurers or trustees of such society, or any two or more of them, that such monies belong exclusively to the society for which such payment is intended to be made; and the cashier or cashiers of the Bank of England are hereby required to receive all such monies, and to place the same to the account raised in the names of the said commissioners for the time being in the books of the Bank of England, denominated "The Fund for the Friendly Societies;" and in case any such declaration shall not be true, then and in every such case the sum so paid shall be forfeited to the said commissioners; and all the clauses and provisions of an Act passed in the ninth year of his present Majesty's reign, intituled *An Act to consolidate and amend the Laws relating to Savings Banks*, with respect to the accounts of banks for savings, and the regulation of receipts certificates or order concerning the same, shall be applicable to the monies so paid into the Bank of England under the authority of this Act, as if the same had been repeated herein: Provided nevertheless, that every society formed and inrolled previous to the twenty-eighth day of July one thousand eight hundred and twenty-eight, under the provisions of an Act made and passed in the said fifty-ninth year of his late Majesty's reign, intituled *An Act for the further Protection and Encouragement of Friendly Societies, and for preventing Frauds and Abuses therein*,

No. VIII.
10 Geo. IV.
c. 56.

Reference of
Disputes to
Justices, if so
directed by the
Rules of the
Society.

Orders of Jus-
tices to be final.

Funds may be
subscribed into
Savings Bank;

9 G. 4. c. 92.

or into the
Bank of Eng-
land, on Re-
ceipts.

Societies in-
rolled under
59 G. 3. c. 128,
prior to 28
July 1828, en-
titled to 3d.
Cent. per £

No. VIII.
10 Geo. IV.
c. 56.

Minors may be
Members, and
have legal Au-
thority to Act.

Societies shall
make annual
Audits and
Statements of
the Funds to
the Members.

Returns to be
made to the
Clerks of the
Peace at certain
Periods.

Returns to be
transmitted to
Secretary of
State, and laid
before Parlia-
ment.

Penalty to So-
cieties not mak-
ing Returns.

shall, on paying money directly into the Bank of England as aforesaid, be entitled to receive receipts bearing interest at the rate of three-pence *per centum per diem*, any thing in this Act contained to the contrary thereof notwithstanding: Provided also, that no friendly society which already has invested or may hereafter invest any money with the said commissioners shall be entitled to re-deposit any sum or sums of money with them, without the consent of the said commissioners, or on their behalf by the comptroller-general or assistant comptroller-general under the said commissioners.

XXXII. And be it further enacted, That a minor may become a member of any such society, and shall be empowered to execute all instruments, give all necessary acquittances, and enjoy all the privileges and be liable to all the responsibilities appertaining to members of matured age, notwithstanding his or her incapacity or disability in law to act for himself or herself: Provided always, that such minor be admitted into such society by and with the consent of his or her parents masters or guardians.

XXXIII. And be it further enacted, That the rules of every such society shall provide that the treasurers, trustees, stewards, or other principal officer thereof shall, once in every year at least, prepare or cause to be prepared a general statement of the funds and effects of or belonging to such society, specifying in whose custody or possession the said funds or effects shall be then remaining, together with an account of all and every the various sums of money received and expended by or on account of the said society since the publication of the preceding periodical statement; and every such periodical statement shall be attested by two or more members of such society appointed auditors for that purpose, and shall be countersigned by the secretary or clerk of such society; and every member shall be entitled to receive from the said society a copy of such periodical statement, on payment of such sum as the rules of such society may require, not exceeding the sum of sixpence.

XXXIV. And whereas it is desirable, for the better security of such societies, that correct calculations of tables of payment and allowances, dependent on the duration of sickness and the probabilities of human life, may be constructed for their assistance: And whereas the present existing data on these subjects have been found imperfect and inefficient; be it therefore further enacted, that every such society established or to be established under the authority of this Act shall, within three months after the expiration of the month of *December* one thousand eight hundred and thirty-five, and so again within three months after the expiration of every further period of five years, transmit to the clerk of the peace for the county wherein such society is held a return of the rate of sickness and mortality experienced by the said society within the before-mentioned period of five years, according to the form prescribed in the schedule appended to this Act, a copy whereof shall be annexed to the rules of each society respectively.

XXXV. And be it further enacted, That the said clerks of the peace shall, within one month after the expiration of the month of *March* one thousand eight hundred and thirty-six, and so again within one month after the expiration of every further period of five years, transmit to one of his Majesty's principal secretaries of state a list of the societies which have been inrolled during such period under this Act, specifying their names, the places where they have been established, and date of inrolment, and a time of ceasing to exist, if such case should arise, and also a copy of the returns of sickness and mortality herein-before directed to be made to them according to the schedule (A.); a copy of which list, with the schedule attached to it, shall be laid before both Houses of Parliament within one month then next ensuing, if Parliament shall be sitting, or within one month after the time when Parliament shall next sit.

XXXVI. And be it further enacted, That should any such society refuse or neglect to transmit or cause to be transmitted the aforesaid returns of sickness and mortality in the manner and within the time herein-

before directed, the clerk of the peace within each county shall give immediate notice to such society, that unless the said return is made within twenty-one days from the date of such notice, the said society will, and thereupon shall, cease to be entitled to the privileges of this Act, unless good and sufficient cause be shown to the justices at their then next ensuing general or quarter sessions why such returns could not be made.

XXXVII. And be it further enacted, That no copy of rules, power, warrant, or letter of attorney granted or to be granted by any persons as trustee of any society established under this Act, for the transfer of any share in the public funds standing in the name of such trustee, nor any receipts given for any dividend in any public stock or fund or interest of exchequer bills, nor any receipt, nor any entry in any book of receipt, for money deposited in the funds of any such society, nor for any money received by any member, his or her executors or administrators, assigns or attorneys, from the funds of such society, nor any bond nor other security to be given to or on account of any such society, or by the treasurer or trustee or any officer thereof, nor any draft or order, nor any form of assurance, nor any appointment of any agent, nor any certificate or other instrument for the revocation of any such appointment, nor any other instrument or document whatever required or authorized to be given, issued, signed, made, or produced in pursuance of this Act, shall be subject or liable to or charged with any stamp duty or duties whatsoever.

Exemption
from Stamp
Duties.

XXXVIII. And be it further enacted, That the word "society" in this Act shall be understood to include friendly society or societies, institution or institutions; the word "rules" to include rules orders and regulations; the word "county" to include county, riding, division, or place; and the words "treasurer or trustee" to include treasurers or trustees; and the word "person" to include persons; and the word "book" to include books; and the word "bond" to include bonds; "name" to include names; "account" to include accounts; "member" to include members and honorary members; "clerk of the peace" to include town clerk; unless it be otherwise specially provided.

Construction of
Act.

XXXIX. And be it further enacted, That this Act shall extend to all friendly societies hereafter to be established, and also to societies already established, as soon as they shall think fit to conform to the provisions thereof.

Act to extend to
all present and
future Socie-
ties.

XL. And be it further enacted, That provided societies already inrolled shall not conform to the provisions of this Act within the space of three years from the passing of this Act, the said societies shall then cease to be entitled to the privileges and provisions of any or either of the herein-before repealed Acts: Provided nevertheless, that the provisions of the herein-before repealed Acts shall continue in force as to all societies established under any or either of them before the passing of this Act for the said space of three years, or until they shall sooner conform to the provisions of this Act.

Societies al-
ready inrolled
to conform to
this Act within
Three Years.

XLI. And be it further enacted, That this Act shall be deemed a public Act, and shall extend to *Great Britain and Ireland and Berwick-upon-Tweed*, and be judicially taken notice of as such by all judges justices and other persons whatsoever, without the same being specially shown or pleaded.

Public Act.

SCHEDULE (A.)

T of the MEMBERS of the Society held at , established on the the Sickness and Mortality experienced therein for the period of Five Years, commencing January First, 18 , and ending December 31st, 18 , with a Return of

[illegible]

FORM OF AWARD.

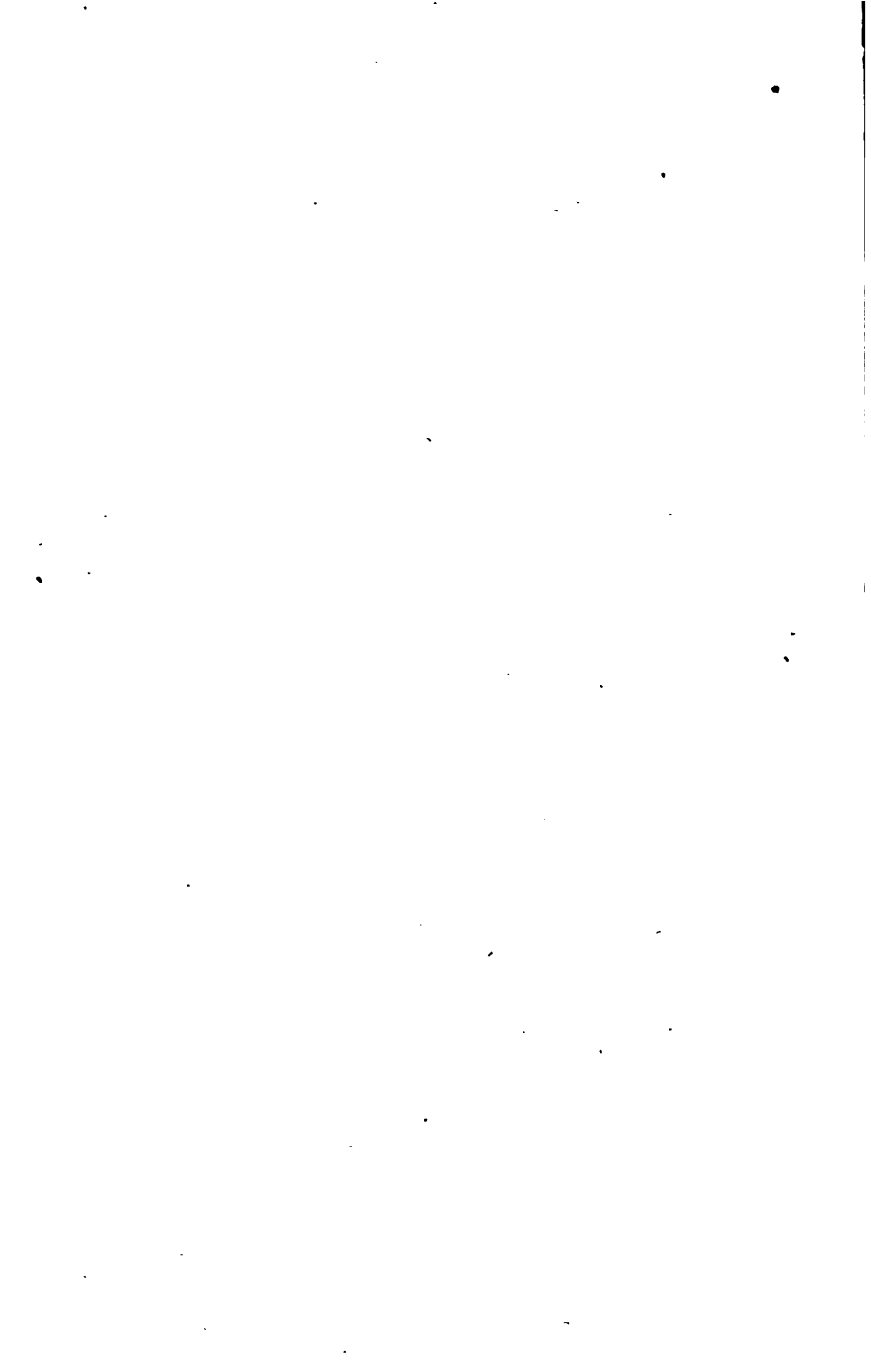
WE, the major part of the arbitrators duly appointed by the society established at _____ in the county of _____ do hereby award and order, That *A. B.* [*specifying by name the party or the officer of the society*] do, on the _____ day of _____, pay to *C. D.* the sum of _____ [*or we do hereby reinstate in or expel A. B.*] from the said society [*as the case may be*]. Dated this _____ day of _____ one thousand eight hundred and _____

E. F.
G. H.

FORM OF BOND.

KNOW all men by these presents, That we, *A. B.* of _____ treasurer [*or trustee, &c.*] of the _____ society established at _____ in the county of _____, and *C. D.* of _____ and *G. H.* of _____ (as sureties on behalf of the said *A. B.*), are jointly and severally held and firmly bound to *E. F.*, the present clerk of the peace [*or town clerk*] for the county [*or county of a city, or county of a town, riding, division, or place, as the case may be*] of _____ in the sum of _____ to be paid to the said *E. F.* as such clerk of the peace, [*or town clerk,*] or his successor, clerk of the peace [*or town clerk,*] of the said county [*or county of a city, &c.*] for the time being, or his certain attorney; for which payment well and truly to be made we jointly and severally bind ourselves, and each of us by himself, our and each of our heirs executors and administrators, firmly by these presents, sealed with our seals. Dated the _____ day of _____ in the year of our Lord _____

Whereas the above-bounden *A. B.* hath been duly appointed treasurer [*or trustee, &c.*] of the _____ society established as aforesaid, and he, together with the above-bounden *C. D.* and *G. H.* as his sureties, have entered into the above-written bond, subject to the condition herein-after contained; now, therefore, the condition of the above-written bond is such, that if the said *A. B.* shall and do justly and faithfully execute his office of treasurer [*or trustee*] of the said society established as aforesaid, and shall and do render a just and true account of all monies received and paid by him, and shall and do pay over all the monies remaining in his hands, and assign and transfer or deliver all securities and effects, books, papers, and property of or belonging to the said society in his hands or custody, to such person or persons as the said society shall appoint, according to the rules of the said society, together with the proper or legal receipts or vouchers for such payments, and likewise shall and do in all respects well and truly and faithfully perform and fulfil his office of treasurer [*or trustee, &c.*] to the said society, according to the rules thereof, then the above-written bond shall be void and of no effect, otherwise shall be and remain in full force and virtue.



PART VI.

CLASS XIX.

*Game.**

* In the following Series of the Statutes relating to Game, I have availed myself of the assistance of Mr. Chitty's Treatise on that subject. The Statutes of which the Contents are given seem to include all those of a general nature, which are referrible to the existing practice of the Law, with the exception of those relating to Game Certificates; and which, in conformity with the general principle of the Work, as not comprising matters of Revenue, I have thought it requisite to exclude. But several of the more ancient Statutes, of which the Titles only are here inserted, are still in force, although they have fallen into disuse.

[No. I.]—*CHARTA FORESTÆ*.—As made A. D. 1215, and confirmed by 9 Henry III. 28 Edw. I. and 52 Hen. III. c. 5.

[No. II.] Stat. Merton, 20 Hen. III. c. 11. A. D. 1235.

[Lords shall not imprison Offenders at their own Wills, for Trespasses in their Parks and Ponds.]

[No. III.] Stat. Westm. 1. 3 Edw. I. c. 20. A. D. 1275.

[The Punishment for Offences committed in Parks and Ponds.]

[No. IV.] Stat. de Malefactoribus in Parcibus, Anno 21 Edw. I. Stat. 2. A. D. 1293.

[No. V.] *Ordinatio Forestæ*, made 33 Edw. I. Stat. 5. Anno Dom. 1305.

[No. VI.] *Ordinatio Forestæ*, made Anno 34 Edw. I. Stat. 5. Anno Dom. 1306.

[No. VII.] 1 Edw. III. Stat. 1. c. 8. A. D. 1327.

[How he shall be used that is taken for any Offence in the Forest. Stat. 3 Ed. I. 20. St. 9 H. 3. st. 2. c. 10. 11. & 16.—A Remedy for the Prisoner if the Warden of the Forest will not bail him. St. 7 R. 2. c. 4. Regist. p. 80. Carth. 78.]

[No. VIII.] 1 Edw. III. Stat. 2. c. 1. Anno Dom. 1327.

[A Confirmation of Charters, Perambulation of Forests. Charters hereof. 16 Car. 1. c. 15.—Using of Woods within the Forest.—The Temporalities of Bishops.]

[No. IX.] 34 Edw. III. c. 22. Anno Dom. 1360.

[In what sort one Man's Hawk taken up by another shall be used.—Stealing a Hawk. Enforced by 37 Edw. 3. c. 19. which makes the Offence Felony.]

[No. X.] 37 Edw. III. c. 19. Anno Dom. 1363.

[How each Person shall use a Hawk of another Man's that he taketh up.—The concealing or embezzling of a Hawk is Felony.]

[No. XI.] 7 Richard II. Anno Dom. 1383.

[General Protection of Juries relating to Forests.—None shall be taken or imprisoned by the Officers of the Forest without Indictment, &c. Regist. fo. 89. 9 H. 3. st. 2. c. 10. 11. & 16. 1 Edw. 3. st. 1. c. 8.]

[No. XII.] 13 Richard II. Stat. 1. c. 13. A. D. 1389.—
None shall hunt but they which have a sufficient Living.

[No. XIII.] 1 Hen. VII. c. 7. A. D. 1485.—An Act shewing the Penalty for hunting in the Night, or with Disguising.

[No. XIV.] 11 Hen. VII. c. 17. A. D. 1494.—The Forfeiture for taking of Pheasants or Partridges, or the Eggs of Hawks or Swans.

[No. XV.] 19 Hen. VII. c. 11. Anno Dom. 1503.—For Deerhayes and Buckstalls,

[No. XVI.] 14 and 15 Hen. VIII. c. 10. A. D. 1523.—
The Penalty for unlawfully hunting the Hare.

[No. XVII.] 25 Hen. VIII. c. 11. A. D. 1533.—To avoid destroying of Wild-fowl.

[No. XVIII.] 5 Eliz. c. 21. A. D. 1562.—An Act for punishing of unlawful taking of Fish, Deer, or Hawks.

[I. How Persons for unlawful Fishing, hunting in a Park, and taking of Hawks or Hawks' Eggs out of another's Ground, shall be punished.]

[III. The Penalty for breaking of a Park, and hunting of Deer. 3 Jac. I. c. 13. Co. pl. 361.—The Penalty for taking of Hawks or Hawks' Eggs out of another's Ground.]

[IV. A Park inclosed without Licence of the Queen, &c.]

The other Sections are inserted ante, title Fish.

[No. XIX.] 23 Eliz. c. 10. A. D. 1581.—An Act for the Preservation of Pheasants and Partridges.

[No. XX.] 1 or 2 James I. c. 27. A. D. 1604.—An Act for the better Execution of the Intent and Meaning of former Statutes made against shooting in Guns, and for the Preservation of the Game of Pheasants and Par-

tridges, and against the destroying of Hares with Hare-pipes, and tracing Hares in the Snow.*

No. XX.

1 or 2

James I.

c. 27.

1 or 2 James I.
c. 27.Penalties for
destroying of
Pheasants, Par-
tridges, Pigeons,
Hares.

FORASMUCH as there be divers good and necessary laws and statutes which do inflict and impose divers great and heavy penalties punishments and forfeitures upon such as should with any guns nets cross-bows or other instruments or engines spoil or destroy the game of pheasants partridges hearn mallard and such like, and upon such as kill or destroy hares with hare-pipes cords or other engines, or should kill any hare by tracing and coursing them with dogs in the snow: And nevertheless of late years the several games above-mentioned have been more excessively and outrageously spoiled and destroyed than hath been in former ages, especially by the vulgar sort and men of small worth making a trade and a living of the spoiling and destroying of the said games, who are not of sufficiency to pay the said penalties in the said statutes mentioned, nor to answer the costs and charges of any that should inform and prosecute against them in any of his said Majesty's courts of record at Westminster upon any of the said penal laws and statutes; by reason whereof few suits have been attempted upon the said laws, and for the said forfeitures whereby the good thereby meant and hoped hath not succeeded, and thereby great scarcity of the said games in all or in the most parts of this realm hath followed, and presently is and so is like to be if some remedy be not in that behalf provided.

It. Be it therefore enacted by the authority of this present Parliament, That all and every person and persons which from and after the first day of August next following shall shoot at kill or destroy with any gun cross-bow stone-bow or long-bow any pheasant partridge house-dove or pigeon hearn mallard duck teal widgeon grouse heath-cock moor-game or any such fowl or any hare; or after the said first day of August shall take kill or destroy any pheasant partridge house-dove or pigeon with setting-dogs and nets, or with any manner of nets snares engines or instruments whatsoever; or shall take the eggs of any pheasant partridge or swans out of the nests, or willingly break spoil or destroy the same in the nests: or after the said first day of August shall trace or course any hares in the snow, or at any time take or destroy any hares with any hare-pipes cords or with any such instruments or other engines; and the same offence or offences being proved by the confession of the party or by the testimony of two sufficient witnesses upon oath before two or more justices of peace of the same county city or town corporate wherein the offence shall be committed or the party offending apprehended, shall be by the said justices of peace for every such offence committed to the common gaol of the said county city or town corporate where the offence shall be committed or the parties apprehended, there to remain for three months without bail or mainprize unless that the said offender do or shall forthwith upon the said conviction pay or cause to be paid to the church-wardens of the said parish where the said offence shall be committed or the party apprehended, to the use of the poor of the said parish the sum of twenty shillings for every pheasant partridge house-dove pigeon hearn mallard duck teal widgeon grouse heath-cock moor-game or any such fowl; and for every egg of pheasant partridge or swan and for every hare which any and every such person and persons so offending and convicted as aforesaid shall take kill or willingly destroy, contrary to the true purport and true meaning of this statute; or after one month after his commitment, together with two sufficient sureties, become bound by recognisance in the sum of twenty pounds a-piece to the King's Majesty's use his heirs and successors, with condition that he the said party so offending shall not at any time hereafter shoot at kill take or destroy any of the said games before-mentioned by any of the means aforesaid: which said recognisances shall be taken by any two or more justices of peace of the said county city or town corporate where the offender shall

Burn, v. 1.

485 and 490.

One Witness
sufficient.7 Jac. 1. c. 11.
a. 8.

*. Query whether this Act, as to killing Game, be repealed by 22 and 23 Oct. 2. c. 25. Rex v. Harris, 7 T. R. 238.

No. XX.

1 or 2

James I.

c. 27.

The Penalty
for keeping a
Greyhound, a
Setting-dog, a
with Nets to
take Pheasants,
&c.

The Penalty
for selling or
buying to sell
again Deer,
Hare, Partridge
or Pheasant.

No Punishment
by any former
Law where it is
inflicted by
this.

Which Officers
may hear
and determine
these Offences.

Who may take
Pheasants and
Partridges with
Nets, and when.

Repealed by
7 Jac. I. c. 11.
sect. 6.

be so imprisoned as aforesaid, and shall be returned to the then next quarter session and there to remain of record as other recognisances taken for the peace.

III. And for the better preservation of deer hares and other the games aforesaid, be it further enacted by the authority aforesaid, That all and every person and persons which from or after the said first day of *August* shall have or keep any greyhound for coursing of deer or hare or setting-dog or dogs or net or nets to take pheasants or partridges, except such person or persons which shall be seised in their own right or in the right of their wives of lands tenements or hereditaments of the clear yearly value of ten pounds by the year or more over and above all charges and reprises of some estate of inheritance; or of lands tenements or hereditaments in his own right or in right of his wife for term of life or lives of the yearly value of thirty pounds over and above all charges and reprises; or be possessed of goods or chattels to the full value of two hundred pounds to his own use; or be the son or sons of any knight or of any baron of Parliament or of some person of higher degree or the son and heir apparent of any esquire; and being thereof convicted as aforesaid, shall by the said justices of the peace be committed and imprisoned in manner and form as in and by this present Act before is expressed specified and declared; except such person and persons so offending and thereof convicted as aforesaid do forthwith pay or cause to be paid to the churchwardens of the said parish where the said offence shall be committed or the party apprehended to the use of the poor of the said parish the sum of forty shillings of good and lawful money of *England*.

IV. And be it further enacted by the authority aforesaid, That every person and persons which at any time after the said first day of *August* shall sell or buy to sell again any deer hare partridge or pleasant (except partridge and pheasants reared and brought up in house or houses or brought from beyond the seas), shall forfeit for every deer so bought and sold forty shillings; for every hare ten shillings; and for every partridge ten shillings; and for every pheasant so to be bought and sold twenty shillings: of all which forfeitures the one moiety shall be to him or them that will sue for the same by bill indictment or information, and the other moiety to the poor of the parish where the said offence or offences shall be committed.

V. And be it further enacted by the authority aforesaid, That no person or persons shall or may after the said first day of *August* be punished by force of any former statute or law for any of the said offences for which by force of this law any punishment shall be inflicted: And that all justices of assize in their several circuits and all justices of the peace in their general quarter sessions, and any two justices of peace or more together out of any sessions shall and may by force of this present Act have full power and authority to examine hear punish and determine all offences to be committed against this present statute, and to administer oaths as aforesaid and perform and execute all and every act and thing fit or requisite for the due execution of this present Act.

VI. Provided always, That it shall and may be lawful for every person or persons which have or shall have free warren, and to and for every lord of a manor and to every freeholder which is or shall be seised in his own right or in the right of his wife of lands tenements or hereditaments to the clear yearly value of ten pounds or more by the year over and above all charges and reprises of some estate of inheritance; or of lands tenements or hereditaments in his own right or in the right of his wife for term of life or lives of the yearly value of thirty pounds over and above all charges and reprises; or be or which shall be worth in goods or chattels two hundred pounds; by him or themselves or by his or their menial servants (sufficiently authorised from his or their master for that purpose) to take pheasants and partridges in the day-time only with nets in and upon his and their own or his and their masters free warren manor and freehold or on any part of them betwixt the Feast of *St. Michael* the Archangel and the Feast of the Birth of

our Lord God yearly; any thing in this law to the contrary notwithstanding.

VII. And be it also further enacted by the authority aforesaid, That it shall and may be lawful to and for every person and persons keeping any hawk or hawks which at the general quarter sessions of the county (where he and they shall dwell) shall be licensed to shoot hail-shot in hand-guns or birding-pieces at crow chough pye rook ring-dove jey or smaller birds for hawks-meat only, to shoot and kill hawks-meat according to the said licence only: so that such party so to be licensed do at the same quarter sessions wherein he shall be licensed, become bound to the King's Majesty by recognisance in twenty pounds not to shoot at any the fowl or game at which shooting is prohibited by this law; and so that he or they shall not shoot in any hand-gun or other-gun within six hundred paces of any hernery nor within one hundred paces of any pigeon-house nor in any park forest or chase whereof the party so licensed or his master is or shall not be the owner keeper or governor: for which licence and recognisance the clerk of the peace is to take only twelve pence and no more. This law to continue to the end of the first session of the next Parliament.—[3 Car. I. c. 4. Continued until the end of the first session of the next Parliament and farther continued by 16 Car. I. c. 4.]

No. XX.

1 or 8

James I.

c. 27.

Licence to shoot in a Gun for Hawks-meat.

Continuance of this Statute.

[No. XXI.] 3 James I. c. 13. A. D. 1605.—An Act against unlawful hunting, stealing of Deer and Conies.

[No. XXII.] 7 James I. c. 11. A. D. 1609.—An Act to prevent the Spoil of Corn and Grain, by untimely Hawking, and for the better Preservation of Pheasants and Partridges.

WHEREAS in the first session of this present Parliament there was a good law made amongst other things for the preservation of the game of pheasants and partridges, which hath not yielded that good success as was by the same law hoped for and intended, through disorderly and unseasonable hawking whereby great quantity of corn and grain hath been and is not only uncharitably spoiled and destroyed but great numbers of pheasants and partridges thereby killed and spoiled before they be either fit to be hawked at or to be used for food or diet.

II. For the preventing of both which inconveniences and mischiefs, Be it enacted by the authority of this present Parliament, that all and every person or persons whatsoever which at any time after the end of this present session of Parliament doth or shall hawk at destroy or kill any pheasant or pheasants partridge or partridges with any kind of hawk or hawks dog or dogs by colour of hawking, between the first of July and the last day of August, and the same offence or offences being proved by the confession of the party or by the testimony of two sufficient witnesses upon oath before two or more justices of the peace of the said county city or town corporate wherein the offence shall be committed or the party offending apprehended, shall be by the said justices of the peace for every such offence committed to the common gaol of the said county city or town corporate where the offence shall be committed or the parties apprehended; there to remain for one whole month without bail or mainprize unless that the said offender do or shall forthwith upon the said conviction pay or cause to be paid to the churchwardens of the said parish or unto the overseers of the poor or some of them where the said offence shall be committed or the party apprehended, to the use of the poor of the same parish the sum of forty shillings for every such hawking at any pheasant or partridge, and twenty shillings for every such pheasant or partridge which any and every such person and persons so offending and convicted (as aforesaid) by himself his hawk or hawks dog or dogs,

7 James I. c. 11.

The Penalty for killing of Pheasants or Partridges at undue Times, or by undue Means.

1 Jac. I. c. 27.

Burn, v. 1.

490.

No. XXII.

7 James I.

c. 11.

He that is punished by this Law shall be excused for any other.

Within what Time an Offender shall be accused.

A Repeal of a Branch of the Statute of 1 or 2 Jac. 1. c. 27.

Who may take Pheasants and Partridges, where and when.

shall take kill or destroy contrary to the true purport intent and meaning of this present statute.

III. Provided always and be it enacted by the authority aforesaid, That if any person or persons shall be at any time hereafter convicted and punished by virtue of this law, that then the party so punished shall not for the same offence be afterwards called in question, and punished by virtue of any other law touching or concerning the like offences.

IV. Provided also, That no offenders shall be impeached or punished by virtue of this Act unless he or they be accused as delinquent before the said justices of peace within six months next after the said offence or offences committed or done.

V. And whereas by a proviso in the said statute contained it is provided, That it shall and may be lawful to and for every person and persons which have or shall have free warren, and to and for every lord of a manor and to every freeholder which is or shall be seized in his own right or in the right of his wife of lands tenements or hereditaments to the clear yearly value of ten pounds or more by the year over and above all charges and reprises of some estate of inheritance; or of lands tenements or hereditaments in his own right or in the right of his wife for term of life or lives of the yearly value of thirty pounds over and above all charges and reprises; or be or which shall be worth in goods or chattels two hundred pounds; by him or themselves or by his or their menial servants (sufficiently authorised from his or their master for that purpose) to take pheasants and partridges (in the day-time only) with nets in and upon his and their own or his or their master's free warren manor and freehold or on any part of them betwixt the Feast of *St. Michael* the Archangel and the Feast of the Birth of our Lord God yearly; any thing in the said law to the contrary notwithstanding: by colour of which liberty so given by the said proviso it is found by experience that the said games of pheasants and partridges have been and still are likely to be much spoiled and destroyed by many mean tenants and freeholders against the will of the lords or owners of inheritance of the said lands and tenements.

VI. Be it therefore enacted by the authority aforesaid, That the said proviso and every clause article and thing therein contained shall be from the end of this present session of Parliament utterly repealed frustrate and made void; any thing in the said proviso contained to the contrary notwithstanding.

VII. And that it shall and may be lawful for every person or persons which have or shall have free warren and to and for every lord of a manor and to and for every freeholder which is or shall be seized in his own right or in the right of his wife of lands tenements and hereditaments to the clear yearly value of forty pounds or more by the year over and above all charges and reprises of some estate of inheritance; or of lands tenements and hereditaments in his own right or in the right of his wife for term of life or lives of the yearly value of fourscore pounds over and above all charges and reprises; or which shall be worth in goods or chattels four hundred pounds; by him or themselves or by his or their menial and household servants (sufficiently authorised from his or their master for that purpose) to take pheasants and partridges (in the day-time only) in and upon his and their own or his and their master's free warren manor and freehold as aforesaid or on any part of them betwixt the Feast of *St. Michael* the Archangel and the birth of our Lord God yearly; any thing in the said law before mentioned to the contrary notwithstanding.

VIII. And whereas the said games of pheasants and partridges are excessively spoiled and destroyed by base persons of bad and mean condition making a trade and living of the spoiling and destroying of the said games who are not of sufficiency to pay any penalty in any former statute mentioned nor to answer the costs and charges of any that should inform and prosecute against them in any of his Majesty's courts: By reason whereof and for that the said offenders are hardly discovered

'and seldom or never found offending in the presence of divers witnesses, so that it is very hard to convict them by the testimony of more witnesses than one by reason that they spoil and destroy the said games secretly and for the most part in the night-time and do carry such pheasants and partridges as they so destroy likewise by night to cities and market-towns to be sold.' Be it therefore further enacted by the authority aforesaid, That all and every person or persons which from and after the first day of September next shall take kill or destroy any pheasant or partridge with setting-dogs and nets or otherwise with any manner of nets snares or engines, and the same offence or offences being proved by the confession of the party or by the testimony of one sufficient witness upon oath before two or more justices of the peace of the same county city or town corporate wherein the offence shall be committed or the party offending apprehended, shall be by the said justices of peace for every such offence committed to the common gaol of the said county city or town corporate where the offence shall be committed or the party apprehended, there to remain for three months without bail or mainprize, unless that the said offender shall forthwith pay or cause to be paid to the churchwardens or overseers of the poor of the said parish where the said offence shall be committed the sum of twenty shillings for every pheasant or partridge which any and every such person or persons so offending shall take kill or destroy as aforesaid contrary to the purport and true meaning of this statute; and further to become bound by recognisance in the sum of twenty pounds to his Majesty his heirs and successors, with condition that he the said party so offending shall not at any time thereafter take kill or destroy any pheasant or partridge; which said recognisance shall be taken by any one or more justices of peace of the said county city or town corporate where the said offence shall be committed as aforesaid and shall be returned to the then next quarter sessions and there to remain of record as other recognisances taken for the peace.

No. XXII.

7 James I.

c. 11.

Penalty for taking any Pheasants or Partridges with Setting-dogs, Nets, &c.

IX. And be it further enacted, That every constable and headborough in every county city town corporate and other place where they shall be sworn officers shall and may by virtue of this present Act (bringing with them to that purpose a lawful warrant under the hands of two justices of the peace of the county city liberties or town corporate) have full power and authority to enter into and search the house or houses of any person or persons (other than such as by this present Act are allowed to take pheasants and partridges with nets as aforesaid) being suspected to have any setting-dogs or nets for the taking of pheasants and partridges; and wheresoever they shall find any such setting-dogs or nets the same to take carry away and detain kill destroy and cut in pieces as things prohibited by this Act and forfeited to such of the said officers as shall find out and take the same as aforesaid.

Officers may search the Houses of Persons suspected to offend.

X. This law to continue unto the end of the first session of the next Parliament and no longer. (3 Car. 1. c. 4. continued until the end of the first session of the next Parliament, and farther continued by 16 Car. 1 c. 4.)

Continuance of this Act.

[No. XXIII.] 7 James I. c. 13. A. D. 1609.—An Act for the Explanation of one Statute made in the Second Session of this present Parliament, intituled 'An Act against unlawful hunting and stealing of Deer and Coonies.'

[No. XXIV.] 16 Charles I. c. 16. A. D. 1640.—An Act for the Certainty of Forests, and of the Meets, Meers, Limits, and Bounds of the Forests.

No. XXV.

13 Car. II.
sess. 1. c. 10.

[No. XXV.] 13 Charles II. Sess. 1. c. 10. A. D. 1661.
—An Act to prevent the unlawful coursing, hunting,
or killing of Deer.

[No. XXVI.] 22 and 23 Charles II. c. 25. A. D. 1670.
—An Act for the better Preservation of the Game, and
for securing Warrens not inclosed, and the several
Fishings of this Realm.

22 & 23 Car. II.
c. 25.

‘ WHEREAS divers disorderly persons laying aside their lawful trades
and employments do betake themselves to the stealing taking and
‘ killing of conies hares pheasants partridges and other game intended to
‘ be preserved by former laws with guns dogs trammel lowbels hays and
‘ other nets snares hare-pipes and other engines, to the great damage of
‘ this realm and prejudice of noblemen gentlemen and lords of manors
‘ and others owners of warrens.’

Who may ap-
point Game-
keepers.

II. For remedy thereof, be it enacted by the King's most excellent
Majesty, by and with the advice and consent of the Lords Spiritual and
Temporal and the Commons in this present Parliament assembled,
and by the authority of the same, That all lords of manors or other
royalties (1.) not under the degree of an esquire may from henceforth by
writing under their hands and seals authorise one or more game-keeper
or game-keepers within their respective manors or royalties, who being
thereunto so authorised may take and seize all such guns bows grey-
hounds setting-dogs lurchers or other dogs to kill hares or conies, ferrets
trammel lowbels hays or other nets hare-pipes snares or other engines for
the taking and killing of conies hares pheasants partridges or other game,
as within the precinct of such respective manors shall be used by any
person or persons who by this Act are prohibited to keep or use the same:
And moreover, That the said game-keeper or game-keepers or any other
person or persons being thereunto authorised by warrant under the hand
and seal of any justice of the peace of the same county division or
place (2.) may in the day-time search the houses outhouses or other
places of any such person or persons by this Act prohibited to keep or
use the same, as upon ground shall be suspected to have or keep in his
or their custody any guns bows greyhounds setting-dogs ferrets coney-
dogs or other dogs to destroy hares or conies, hays trammel or other nets
lowbels hare-pipes snares or other engines aforesaid, and the same and
every or any of them to seize detain and keep to and for the use of the
lord of the manor or royalty where the same shall be so found or taken
or otherwise to cut in pieces or destroy as things by this Act prohibited
to be kept by persons of their degree.

What such
Game-keepers
may seize.Power to
search Houses.What Persons
are prohibited
the keeping of
Guns, Bows,
Dogs, &c. 5 Mod. 307. 1 Salk. 212.

III. And it is hereby enacted and declared, That all and every person
and persons not having lands and tenements or some other estate of in-
heritance in his own or his wife's right of the clear yearly value (3.) of
one hundred pounds (4.) per annum or for a term of life (5.) or having

(1.) The Lord of a Hundred or Wapentake
cannot, as such, appoint a Gamekeeper. Lord
Aylesbury v. Pattison. Doug. 28.

(2.) A Justice himself is not authorised to
search. Semble, Briggs v. Evelyn. 2 H. B. 114.

(3.) If the Premises are subject to a Mortgage,
the Interest of which is more than the annual Val-
ue, the party is not qualified: but Possession is
prima facie Evidence of Property, and the De-
fendant must be presumed to be the entire
owner: the task lies upon the other party to
make proof to the contrary. Wetherell v. Hall,
Cald. 230. A Declaration before the Commis-

sioners of Income Tax, that the party had not an
Income of 100*l.* a year, and that certain Interest
was payable out of his Estate, is Evidence of want
of Qualification, in opposition to Evidence of his
having an Estate worth 100*l.* a year. Rex v.
Clarke, 8 T. R. 220.

(4.) By 13 Richard II. Laymen not having
Lands of forty shillings a year, and Clergymen
not advanced to ten pounds a year, are prohibited
to hunt, &c. on pain of a year's imprisonment.
By 1 James, c. 27. any person keeping Grey-
hounds for coursing of Deer or Hare, or Setting-
dog or Net to take Pheasants or Partridges, ex-

lease or leases of ninety-nine years or for any longer term of the clear yearly value of one hundred and fifty pounds (6.) other than the son and heir apparent of an esquire (7.) or (8.) other person of higher degree, (9.) and the owners and keepers of forests parks chases or warrens, being stocked with deer or conies for their necessary use in respect of the said forests parks chases or warrens are hereby declared to be persons by the laws of this realm not allowed to have or keep for themselves or any other person or persons any guns bows greyhounds setting-dogs ferrets coney-dogs lurchers hays nets lowbels hare-pipes gins snares or other engines aforesaid; but shall be and are hereby prohibited to have keep or use the same. (10.)

IV. 'And forasmuch as divers warrens and grounds not inclosed are used for the breeding and keeping of conies in several parts of this kingdom and that sundry dissolute and disorderly persons have been much encouraged to kill and destroy the conies in such warrens and grounds not inclosed in the night-time, for that the same is not prohibited or punishable by the statutes in that behalf made and provided which extend only to the stealing and killing of conies in warrens or grounds inclosed.' For remedy thereof, Be it enacted and declared, That if any person or persons shall at any time enter wrongfully into any warren or ground lawfully used or kept for the breeding or keeping of conies (although the same be not inclosed) and there shall take chase or kill any conies against the will of the owner or occupiers thereof, not having lawful title or authority so to do, and shall be thereof lawfully convicted in manner hereafter following, the parties so offending shall yield to the party grieved treble damages and costs and suffer imprisonment by the space of three months, and after till they shall find sureties for their good abearing.

V. 'And forasmuch as divers idle and disorderly persons living near unto warrens, have of late time used to kill and take the conies upon the borders of the same, and under colour thereof do oft time enter into the said warrens and there take and kill conies in the night-time when they cannot easily be discovered.' It is further provided and enacted, That no person or persons shall at any time hereafter kill or take in the night-time any conies upon the borders of any warrens or other grounds lawfully used for the breeding or keeping of conies; excepting only such person or persons as shall be owner of the soil or lawful occupier or possessor of the ground, or any person or persons employed by him her or them, whereupon such conies shall be so killed or taken; upon pain that every person so offending and being thereof lawfully convicted in manner hereafter following, shall give the party or parties injured such recompence or satisfaction for his or their damages and within such time as shall be

No. XXVI.

22 & 23
Car. II.
c. 25.No Person
shall kill Conies
in a Warren not
inclosed.

Forfeiture.

No Person
shall in the
Night kill any
Conies on the
Borders of any
Warren, except
the Owner of
the Ground.

The Penalty.

cept he be seized of an Estate of Inheritance of the yearly value of 10*l.* above all charges and reprises, or 30*l.* a year of a Lives Estate, or Goods of the value of 200*l.*, or be the Son of a Knight or Lord, or the Son and heir apparent of an Esquire, is to be committed to gaol for three months, unless he pay 20*s.* By 3 James, c. 13. Restrictions with respect to Deer and Conies are imposed upon persons not having Hereditaments of 40*l.* a year, nor worth in goods 200*l.* By 7 James I. c. 11. a Freeholder of 40*l.* a year of Inheritance, or Lives Estate of 80*l.* or worth in goods 400*l.* may take pheasants and partridges in the day-time in his own free warren.

(5.) A Life Estate is to be coupled with Leasehold, whereof 150*l.* a year is necessary to constitute a qualification. *Lowndes v. Lewis*, Caldec, 188. A Church Living is a Life Estate, 8 C.

(6.) An Estate of 150*l.* for 99 years, if three Lives shall so long live, is sufficient. *Earl Ferrers v. Hinton*, 8 T. R. 506.

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(7.) The meaning of this Term is not very precisely defined. A person is not constituted an Esquire by being so called in a Commission from the Lord Lieutenant of a County, as Captain in a Corps of Volunteers. *Talbot v. Eagle*, 1 Taunt. 510.

(8.) This means the Son of some other person of higher degree, and not such person himself, who is not qualified merely as being of higher degree than an Esquire: per Lord Mansfield, *Ashurst*, and Buller, *Willes contra: Jones v. Smart*, 1 T. R. 44. *Rex v. Udey*, cited *ibid.*

(9.) Colonels, Sergeants at Law, and Doctors in the three learned Professions, are of higher rank than Esquires. 1 Bl. Com. 405: but a Diploma of a Scotch University does not give such precedence in England. *Jones v. Smart*, *ub supra*.

(10.) For the Penalties for Sporting without being qualified, and the requisite Proceedings for recovering such Penalties, see Stat. 5 Anne, c. 14. post.

Q

No. XXVI.

28 & 23

Car. II.

c. 25.

Imprisonment.

No Person shall
kill or set
pipes and other
engines in or near
woods warrens or
other places; &c.

The Penalty.

No Person
shall fish in the
Pond of any
Person without
his Consent,
with Nets or
other Engines.
See 2 Bar. 682.

The Penalty.

To be levied by
Sheriff.

Justice of the
Peace may cut
the Nets, &c.

The Party

grieved may appeal to the Quarter Sessions.

appointed by the justice before whom such offender shall be convicted, and over and above pay down presently unto the overseers, for the use of the poor of the parish where such offence shall be committed, such sum of money not exceeding ten shillings, as the said justice shall think meet: And if such offender or offenders do not make recompence or satisfaction to the said party or parties injured and also pay the said sum to the poor in manner and form aforesaid, then the said justice shall commit the said offender or offenders to the house of correction for such time as the said justice shall think fit, not exceeding one month.

VI. 'And whereas divers idle and disorderly persons have of late time taken up in practice to take and kill hares and conies with snares bare-pipes and other engines in or near woods warrens or other places;' It is hereby further enacted and declared by the authority aforesaid, That if any person or persons from and after the first day of May which shall be in the year of our Lord God one thousand six hundred and seventy-one shall be found or apprehended setting or using any snares hare-pipes or other like engines and shall be thereof convicted in manner following; the person or persons so offending shall be liable to the penalties in the immediate foregoing clause of this Act in manner as aforesaid.

VII. 'And whereas divers idle disorderly and mean persons do from time to time betake themselves to the stealing taking and killing of fish out of ponds pools motes stews and other several waters and rivers, to the great damage of the owners thereof;' Be it therefore further enacted by the authority aforesaid, That if any person or persons from and after the first day of May which shall be in the year of our Lord God one thousand six hundred seventy and one, shall at any time use any casting-net thief-net drag-net trammel shove-net or other net whatsoever, or any angle hair noose troll or spear, or shall lay any wears pots nets fish-hooks or other engines, or shall take any fish by any means or device whatsoever, in any river stew pond mote or other water as aforesaid, or shall be aiding or assisting thereunto without the licence or consent of the lord or owner of the said water (11.) and be thereof or of any other the offence or offences mentioned in this Act (12.) convict by confession of the offender or by oath of one sufficient witness within one month after the offence committed, before any justice of the peace of such county riding division or place wherein such offence as aforesaid shall be committed, which oath the said justice of peace is hereby empowered to administer: every such offender or offenders in stealing taking or killing fish shall for every such offence give to the party or parties injured, such recompence or satisfaction for his or their damages and within such time as the said justice shall appoint not exceeding treble damages; and over and above pay down presently unto the overseers for the use of the poor where the said offence shall be committed such sum of money not exceeding ten shillings as the said justice shall think meet: And in default of payment as aforesaid, the same to be levied by distress and sale of the offender's goods by warrant under the hand and seal of such justice before whom the offender shall be convicted, rendering the overplus if any be; and for want of distress the offender or offenders shall be committed to the house of correction for such time as the justice shall think fit not exceeding one month; unless the party offending shall enter into bond with one competent surety or sureties to the party injured, not exceeding the sum of ten pounds, never to offend in like manner.

VIII. And be it further enacted, That it shall and may be lawful for every justice of peace before whom such offender as aforesaid shall be convicted, to take cut in pieces and destroy all and every such angles spears hairs nooses trolls wears pots fish-hooks nets or other engines whatsoever wherewith such offender as aforesaid shall be taken or apprehended.

IX. Provided always and be it further enacted by the authority aforesaid

(11.) A Conviction quashed (amongst other defects) for not stating the taking to be without the consent of the owner. *Rex v. Mallinson*, 2 Bar. 679.

(12.) There is nothing in the subsequent part of the Clause to give effect to these words.

said, That if any person or persons shall find him or themselves aggrieved by any judgment which shall happen to be given by any justice of the peace by virtue of this Act, it shall and may be lawful for such person or persons so aggrieved to appeal unto the justices of peace in their general or quarter sessions which shall happen to be held next after such judgment given, who or the greater number of them are hereby authorised and empowered to give such relief and make such order therein as shall be agreeable to the tenor of this Act; and such judgment order or determination as by the said justices shall be made upon the said appeal shall be final to all intents and purposes whatsoever, if no title to any land royalty or fishery be therein concerned.

X. Provided always and be it further enacted, That neither this Act nor any thing therein contained shall extend or be construed to extend to the taking away or abridging of any royalty or prerogative royal of his Majesty, nor to abridge change or alter any part of the forest laws of this realm, but all and every such laws rights powers royalties and prerogatives royal shall remain and be in as full and ample force and virtue as the same ought to have been in if this Act had not been made; any thing herein-before contained to the contrary notwithstanding.

No. XXVI.

22 & 23
Car. II.
c. 25.

A Saving of all
Royalties and
Prerogatives to
his Majesty and
Forest Laws.

[No. XXVII.] 3 William & Mary, c. 10. A. D. 1691.
—An Act for the more effectual Discovery and Punishment of Deer Stealers.

[No. XXVIII.] 4 & 5 William & Mary, c. 23.—An Act for the more easy Discovery and Conviction of such as shall destroy the Game of this Kingdom.

WHEREAS divers good and necessary laws have been heretofore made for the better preservation of the Game, notwithstanding which laws, or for want of the due execution thereof, the game of this kingdom hath been very much destroyed by many idle persons, who afterwards betake themselves to robberies burglaries or other like offences and neglect their lawful employments; For remedy whereof, and the more effectual preservation of the game,

4 & 5 Will. &
Mary, c. 23.

II. Be it enacted by the King's and Queen's most excellent Majesties, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That all and every law and statute now in force for the better preservation of the game and every article and thing in them contained, and not herein and hereby altered or repealed, shall be duly put in execution according to the tenor of the said laws and under the penalties therein contained to be raised levied and disposed of as in and by the said laws are directed.

Laws against
destroying
Game to be ex-
ecuted.

III. And be it further enacted by the authority aforesaid, That for the more easy conviction of such offenders as by the said laws are prohibited, every constable headborough and tythingman being thereunto authorised by warrant of one or more justices of the peace under his or their hands and seals shall and may have full power and authority and is hereby required to enter into and search (in such manner and with such power as in and by an Act for the more effectual discovery and punishment of deer-stealers, made in the third and fourth years of their present Majesties reign, is provided in case of venison or skin of any deer or toyls) the house or houses outhouses or other places belonging to such houses or suspected persons not qualified as aforesaid: And in case any hare partridge pheasant pigeon fish fowl or other game, (1.) shall (upon such

Constable by
Warrant may
search suspect-
ed Houses.

3 & 4 Will. &
Mary, c. 10.

If Hare, &c. be
found, and

Owner cannot give good Account, he shall be convicted. Burn, v. 1. 485.

(1.) Rabbits killed in a private Warren are not Game within this Act. 1 Ld. Raym. 151.

No.
XXVIII.
4 & 5
Will. & M.
c. 23.

Penalty upon
Conviction, &c.

Person having
Greyhounds,
&c. how convicted and punished.

Game-keepers
may oppose
Persons in the
Night.
21 Ed. 1. st. 2.
22 & 23 Car. 2.
c. 25.

Persons not
Owners of Fish-
eries, may not
keep Nets, &c.

Owner of
Fishery may
seize Nets, &c.
used in his Fish-
ery, &c.
Burn, v. 1. 495.

search or otherwise) be found, the offender shall be carried before some justice of peace of the same county riding or division; and if such person do not give a good account how he came by such hare partridge pheasant pigeon fish fowl or other game, such as shall satisfy the said justice, or else shall not in some convenient time to be set by the said justice produce the party of whom he bought the same, or some other credible person to depose upon oath such sale thereof, that then such person not giving such good account, nor producing any such witness as aforesaid, shall be convicted by the said justice of such offence, and upon such conviction shall forfeit for every hare partridge pheasant pigeon fish fowl or other game any sum not under five shillings and not exceeding the sum of twenty shillings, to be ascertained by the said justice; one moiety thereof to be paid to the informer, and the other moiety to the poor of the parish where the offence was committed; the same to be levied by distress and sale of the offender's goods by warrant under the hand and seal of the justice before whom the offender shall be convicted, rendering the overplus if any be; and for want of distress the offender or offenders shall be committed to the house of correction for any time not exceeding one month and not less than ten days, there to be whipt and kept to hard labour; and in case any person or persons not qualified by the laws of this realm so to do, shall have keep or use any bows greyhounds setting-dogs ferrets coney-dogs hayes lurchers nets tunnels lowbels hare-pipes snares or any other instruments for destruction of fish fowl or other game, and shall be thereof convicted upon such evidence as aforesaid, the person or persons so convicted shall forfeit and be subject to the same pains and penalties as are hereby directed to be inflicted upon the person or persons who shall be found to have any hare partridge pheasant pigeon fish fowl or other game as aforesaid; and if any person or persons so produced or charged with the said offence shall not before the same justice give such evidence of his innocence as aforesaid, he shall be convicted thereof in the same manner as the person or persons first charged therewith is hereby directed to be, and so from person to person until the first offender shall be discovered.

IV. And to the end all keepers and game-keepers mentioned in and duly authorised according to the Act made in the reign of the late King Charles the Second may be indemnified in the execution of the said office, Be it enacted, That all lords of manors or other royalties or any person or persons authorised by them as game-keepers, shall and may within their respective manors or royalties oppose and resist such offender in the night-time in the same manner, and be equally indemnified for so doing as if such fact had been committed within any ancient chase park or warren inclosed whatsoever.

V. 'And whereas divers idle disorderly and mean persons have and keep nets angles leaps piches and other engines for the taking and killing of fish out of the ponds waters rivers and other fisheries to the damage of the owners thereof; Be it therefore enacted by the authority aforesaid, That no person or persons whatsoever shall and may at any time or times from and after the five-and-twentieth day of March, which shall be in the year of our Lord one thousand six hundred ninety-three, have or keep any net angle leap piche or other engine for the taking of fish, other than the makers and sellers thereof for their better conveniency in the sale of the same, and other than the owner and occupier of any river or fishery for the time being; and moreover that it shall and may be lawful not only for the owner or occupier of any river or fishery, and also for all and every other person and persons by him or them for that purpose appointed, to seize detain and keep to his and their own use and uses all and every net angle leap piche and other engine which he or they shall find used or laid or in the custody or possession of any person or persons whatsoever, fishing in any river or fishery whatsoever without the consent of the owner or occupier thereof, but also for any person or persons whatsoever (being thereunto authorised by warrant under the hand and seal of any justice of the peace of the same county division

borough town corporate or any other place) in the day-time to search the houses outhouses or other places of any person or persons hereby prohibited to have or keep the same, as shall be suspected to have or keep in his or their custody or possession any net angle leap piche or other engine aforesaid, and the same and every or any of them to seize detain and keep to his and their own use and uses or otherwise to cut in pieces or destroy, as things by this Act prohibited to be kept by persons of their degree.

c. 21. 9 Ann. c. 26. 1 Geo. 1. st. 2. c. 18. 5 Geo. 1. c. 18. 23 Geo. 2. c. 26. & 7. 26 Geo. 2. c. 9. 30 Geo. 2. c. 21 and 30. And 33 Geo. 2. c. 27.

No.
XXVIII.
4 & 5
Will. & M.
c. 23.

See 4 Ann.

2. c. 26. & 7.

Fishermen, &c.
lawfully autho-
rised, excepted.

VI. Provided always, That this Act or any thing therein contained shall not extend or be construed to extend to abridge any fisherman or his apprentice or apprentices, lawfully authorised to fish in navigable rivers or waters with lawful nets and engines; but that every of them shall and may (according to the laws and orders made and to be made and settled for the good order rule and government of such navigable rivers and waters) use the trade of fishing, as they lawfully might have done before the making of this Act; any thing in this Act contained to the contrary in any wise notwithstanding.

VII. And whereas divers offenders duly convicted do commonly procure writs of *certiorari* to remove such convictions into superior courts at *Westminster* in hopes thereby to discourage and weary out such persons injured by great delays expences and incertainties; Be it therefore enacted, That no *certiorari* shall be allowed to remove any conviction made or other proceeding of for or concerning any matter or thing in this Act, unless the party or parties against whom such conviction shall be made shall before the allowance of such *certiorari* become bound to the person or persons prosecuting in the sum of fifty pounds, with such sufficient sureties as the justice or justices of the peace before whom such offender was convicted shall think fit, with condition to pay unto the said prosecutors (within one month after such conviction confirmed or *procedendo* granted) their full costs and charges to be ascertained upon their oaths; and that in default thereof it shall be lawful for the said justice and justices and others to proceed to the due execution of such conviction in such manner as if no *certiorari* had been awarded.

No *Certiorari*,
except Security
be given to pay
Costs.

VIII. Provided, That where any offender shall be punished by force of this Act he shall not be prosecuted nor incur the penalty of any other law or statute for the same offence.

Not to be pu-
nished twice for
same Offence.

IX. Provided always, That if any action bill plaint or suit shall at any time after the said five-and-twentieth day of *March* be commenced or brought against any person or persons whatsoever for or by reason of any matter or thing which he or they shall do in pursuance of this Act, it shall and may be lawful to and for the person or persons so sued or prosecuted to plead the general issue and give this Act or any other special matter in evidence; and if the verdict shall pass with the defendant or defendants in such action or the plaintiff or plaintiffs become nonsuit or suffer any discontinuance thereof, that in any such case such defendant or defendants shall have his or their treble costs which he or they shall have sustained in defence of such action or suit for which the said defendant or defendants shall have the like remedy as in other cases where costs by the laws of this realm are given to the defendants.

General Issue.

Treble Costs.

X. And whereas great mischiefs do ensue by inferior tradesmen, (2.) apprentices and other dissolute persons (3.) neglecting their trades and for coming on another Man's Ground, to hunt, &c.

Tradesmen, &c.
liable to Costs
See 2 Wils. 70.

(2.) In *Buxton v. Mingay*, 2 Wils. 70. the Court were equally divided, whether a Surgeon and Apothecary, not qualified to kill Game, was an inferior Tradesman within this Statute.

(3.) The Huntsman of a Gentleman of Fortune, hunting with his Master's Hounds and by his orders, but not in his presence, is not a dissolute person within this clause. *Pallant v. Roll*, 2 Bl. Rep. 900. A qualified person cannot be

deemed an inferior Tradesman. *Rux v. George*, 6 Mod. 40. In *Wickham v. Walter, Barnes*, 125. the Jury decided that the Defendant (a Clothier and Alehouse-keeper) was an inferior Tradesman, and the Court awarded costs accordingly. It is not necessary to allege that a person stated to be an inferior Tradesman was also a dissolute person. *R. v. Clipp*, 2 Str. 711.

No.

XXVIII.

4 & 5

Will. & M.

c. 23.

Penalty upon
burning Ling,
&c. upon
Heaths.

'employments, who follow hunting fishing and other game to the ruin of themselves and damage of their neighbours;' For remedy whereof he it enacted by the authority aforesaid, That if any such person as aforesaid shall presume to hunt hawk fish or fowl, (unless in company with the master of such apprentice duly qualified by law,) such person or persons shall be subject to the penalties of this Act, and shall or may be sued and prosecuted for their wilful trespass in such their coming on any person's land, and if found guilty thereof the plaintiff shall not only recover his damages thereby sustained but his full costs of suit; any former law to the contrary notwithstanding.

XI. Provided always and be it enacted, That for the better preserving the red and black game of grouse commonly called heath-cocks or heath-polls, no person whatsoever on any mountains hills heaths moors forests chaces or other wastes shall presume to burn, between the second day of February and twenty-fourth of June, any grig ling heath fure goss or fern, upon pain that the offender or offenders shall be committed to the house of correction for any time not exceeding one month and not less than ten days, there to be whipt and kept to hard labour.

[No. XXIX.] 5 Anne, c. 14. A. D. 1706.—An Act for the better Preservation of the Game.

5 Anne, c. 14.
All Laws for
Preservation of
the Game to
continue in
Force, &c.

Made perpetual
by 9 Ann, c. 25.
which contains
other Regula-
tions.

Higlar, Car-
rier, &c. not to
have any Hare,
or buy or sell
Hare, &c. on
Penalty of 5*l*.
See 3 Bur.
1720.

1 J. c. 27. s. 4.

To be levied by
Distress, &c.

(Q. No?)

WHEREAS several laws have been already enacted for the better preservation of the Game, and by experience been found not sufficient to prevent destroying the Game by reason of the multitude of higlars and other chapmen, which give great encouragement to idle loose persons to neglect their lawful employments to follow and destroy the same; For remedy whereof and the more effectual preservation of the game, Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That all and every of the laws now in being for the better preservation of the game shall continue remain and be in the same force, not hereby repealed and altered.

II. And be it further enacted by the authority aforesaid, That if any higlar chapman carrier innkeeper victualler or alehouse-keeper shall from and after the first day of May one thousand seven hundred and seven have in his or their custody or possession any hare pheasant partridge moor heath-game or grouse, or shall buy sell or offer to sell (1.) any hare pheasant partridge moor heath-game or grouse, every such higlar chapman innkeeper victualler alehouse-keeper or carrier (unless such game in the hands of such carrier be sent up by person or persons qualified to kill the game) shall upon every such offence be carried before some justice of the peace for the county riding city or town corporate or liberties where the said offence is committed; and upon view or upon the oath of one or more credible witnesses shall be convicted of the same, shall forfeit for every hare pheasant partridge moor heath-game or grouse the sum of five pounds, one half to the informer and the other half to the poor of the parish where the offence was committed; the same to be levied by distress and sale of the offender's goods by warrant under the hand and seal of the justice or justices of the peace before whom such offender or offenders shall be convicted, rendering the overplus (if any be) the charge of distraining being first deducted; and for want of distress the offender or offenders be committed to the house of correction for the first offence for the space of three months without bail or mainprize, and for every such other offence for the space of four months; provided that such conviction (2.) be made within three months after such offence committed; and that if any certiorari shall be allowed to remove any conviction made

(1.) As to what shall be deemed an Offending on this, see 23 Geo. II. c. 12. (post.) sec. 1. and the case of Warneford v. Knidall, 40 E. 10.

(2.) The Conviction cannot be after the three

months, although the delay was occasioned by the Hearing being adjourned at the request of the Defendant: Rex v. Tolley, 3 E. 467.

or either proceeding of or concerning any matter or thing in this Act into any of the courts at Westminster upon any pretence whatsoever, unless the party or parties against whom such conviction shall be made shall, before the allowance of such *certiorari*, become bound to the person or persons prosecuting the same in the sum of fifty pounds, with such sufficient securities as the justice or justices of the peace before whom such offender shall be convicted shall think fit, with condition to pay unto the prosecutors within fourteen days after such conviction or *procedendo* granted their full costs and charges to be ascertained upon their oaths; and that in default thereof it shall be lawful for the said justice or justices or others to proceed for the due execution of such conviction in such manner as if no such *certiorari* had been awarded.

III. And for the better discovery of such high game-chapman carrier inn-keeper alehouse-keeper and victualler as shall offer to buy or sell any hare pheasant partridge moor heath-game or grouse; Be it further enacted by the authority aforesaid, That from and after the said first day of May any person that shall destroy sell or buy any hare pheasant moor heath-game or grouse, and shall within three months make discovery of any high game-chapman carrier inn-keeper alehouse-keeper or victualler that hath bought or sold or offered to buy or sell or had in their possession any hare pheasant partridge moor heath-game or grouse, so as any one shall be convicted of such offence in manner as aforesaid, such discoverer to be discharged of the pains and penalties hereby enacted for killing or selling such game as aforesaid, shall receive the same benefit or advantage as any other informer shall be entitled to by virtue of this Act for such discovery and information.

IV. And be it enacted by the authority aforesaid, That if any person or persons not qualified by the laws of this realm so to do (3.) shall keep (4.) or use (5.) any greyhounds, (6.) setting-dogs, (7.) hayes lurchers &c. and destroy the Game, so forfeit 5*l.* to be levied by Distress and Sale, &c. See 1 Bur. 148.

No. XXIX.

5 Anne,
c. 14.Encouragement
to Destroyers of
the Game so
made Dis-
covery.Persons not
qualified to keep
Greyhounds,

(3.) It is fully settled that a general Averment of the Defendant not being qualified is sufficient in an Action on this Statute. *Bluet v. Needs*, Com. Rep. 522; and that such general Allegation is not sufficient in a Conviction; but that the several Qualifications enumerated in 22 and 23 Charles II. c. 25. must be negatively set out in the Conviction. *R. v. Jarvis*, 1 Bur. 148. And in *Rex v. Earnshaw*, 15 E. 456. the Conviction was set aside for not expressly negating that the Defendant was seized in right of his Wife; although the Conviction was according to the form of Burn, drawn by Lord Ashburton, and which had been usually pursued. In *Rex v. Crowther*, 1 T. R. 125. the Court seemed to think that it was not necessary that the Evidence should negative every particular Qualification; but the Conviction was quashed on another point; and the general question, whether upon a Conviction it was necessary to give any Evidence of want of Qualification, was not entered into. Such Evidence is admitted not to be necessary in the case of an Action. In *R. v. Stone*, 1 East. 636. the Question, whether Evidence must be given of the want of Qualification in case of a Conviction, came directly before the Court of King's Bench, when the Judges were equally divided; Lord Kenyon and Grose J. being of opinion that some Evidence upon that point must be given; Lawrence J. and Le Blanc J. on the contrary, that the proof of Qualification lay on the Defendant. Mr. Paley, in his Treatise on Convictions, p. 139, after noticing this Case, and the Opinions which were expressed in some preceding cases bearing upon

the subject, and referring to the precedent in Burn, in which the Qualifications are negated by the Evidence, judiciously observes, that the considerations which he had stated may suggest the prudence at least of adhering to a form so long used, till a conclusive determination shall have set the Question at rest. Lord Kenyon, in giving his Opinion in *R. v. Stone*, observed, "It is said to be impossible for the Prosecutor's Witnesses to give negative Evidence of the want of Qualification; but I do not see why it may not be done. A Witness may give general Evidence of it from his belief: he may know the Defendant, and know that to all appearance he may not be a man of substance. Evidence may be given of his condition in life, to raise a reasonable presumption against his having any of the necessary Qualifications." It is also necessary to advert to his Lordship's observation upon another part of the Section, in *R. v. Davis*, 6 T. R. 177. "Herep was evidence tending to prove the offence: we have no authority to examine further, and see whether the conclusion drawn by the Magistrate be or be not the inevitable conclusion from the Evidence. It is sufficient in Convictions if there were such Evidence before the Magistrate, as, in an Action, would be sufficient to be left to a Jury."

(4.) The mere keeping a Lurcher is sufficient to incur the Penalty, without using. *R. v. Filer*, 1 Str. 426. So of Harepipes and such like, which are peculiarly fitted or disposed for killing Game: per Curiam, *Rex v. Gardner*, Andr. 253. 2 Str. 1098; but it is otherwise with respect to a Gaur,

tunnells or any other engines to kill and destroy the game, (8.) and shall be thereof convicted upon the oath of one or two credible witnesses, (9.)

which is not an instrument so appropriated to killing Game, as that it is criminal for a person to have one in his custody only: Ruled *ibid.* In *Rex v. Huntley*, Cald. 175. it seems to have been thought that the mere keeping a Greyhound was sufficient; but in *Read v. Phelps*, 15 East. 271. in an Action for keeping a Setting-dog, there being no Evidence of the Dog, which was still young, having been used for the purpose of killing Game, it was ruled that the Action could not be supported; and Lord Ellenborough said, that according to the argument of the Plaintiff, the keeping of a dog, not for the purpose of destroying Game, would be Evidence of a keeping in order to destroy it.

(5.) In *Rex v. King*, 1 Sem. Cas. 88. Parker Ch. J. said that walking about with a Gun, with intent to kill game, is Evidence of using the instrument for that purpose. In *Rex v. Davis*, 6 T. R. 177. the Witness swore that the Defendant did keep and use a Gun with intent to kill and destroy Game, and that he was satisfied that he did so, from hearing a Gun go off, and observing that it was fired by the Defendant, who was walking about with that apparent intent; and the Conviction upon this Evidence was held good: *Vi. the Observation of Lord Kenyon*, supra note 3. In *Rex v. Thomson*, 2 T. R. 18. a Deposition by the Witness in general terms, according to the Precedent in *Burn*, that the Defendant *did keep and use a Gun to kill and destroy the Game*, was supported as being an established Form, although objectionable upon principle; and the Decision was adhered to in *Rex v. Pearse*, 9 East. 358. In *Rex v. Clarke*, 8 T. R. 220. the Court expressed their approbation of the manner in which the Conviction was drawn up, wherein the Magistrates had not simply stated in the words of the Act of Parliament, that the Defendant had kept and used, &c. but had set forth the particular Evidence of his having done so; viz. that the Witness had seen him course and kill a Hare with the said Greyhound; and had also set forth all the Evidence for and against the Defendant, upon the Question of his Qualification: and they recommended this as a precedent to be followed in future. See the precedent framed on the same principle, *Burn Game L.* and said to be drawn by Lord Ashburton; but see also *Rex v. Earnshaw*, supra, note 3.

(6.) A Conviction for keeping and using a Dog called a Greyhound, was held good; and Lord Mansfield said that he thought a Dog called a Greyhound was positive enough, and must mean the Dog of that species generally known in this country. *Rex v. Hartley*, Cald. 173. In *Rex v. Earnshaw*, a Conviction for keeping and using a Dog called a Lurcher was held to be sufficient.

(7.) The Act only extends to such Dogs as are particularly mentioned, therefore in *Hooker v. Wills*, 2 Scr. 1126. it was held that an Action could not be maintained for the Penalty for using a Hound to destroy the Game. So in *Reason v. Little*, Com. Rep. 576. where the Action was for using a Dog.

(8.) In *Rex v. Newman*, Loft, 178. upon an application for an Information against a Justice for convicting two unqualified persons who were out coursing with a qualified person, the Court were of opinion, that the two unqualified persons were protected by being in company with the qualified one; but dismissed the application, the Justice paying costs. The subjecting the Justice to costs seems to have been rather a hard measure, whatever may have been the Law upon the principal question; as there seems to have been no ground for imputing any thing more than a mere erroneous judgment, which would not have been sufficient without more to have supported the Information if it had been brought to trial. In a case before Lawrence J. at Stafford, cited in the later Editions of *Burn*, it was held that though a qualified person may take his Servant to assist him to kill Game, he cannot qualify him to kill it, neither will his presence protect an unqualified person, not being his Servant, who goes to take the amusement of coursing. But if such person take an active part by beating across the fields, or on open lands, and join in the diversion in the same manner with a qualified person, he is as much liable to the Penalties as if no qualified person was present; but from a note in 15 East. 462. it appears that there is reason to think that that case was governed by special circumstances. In *Rex v. Taylor*, 15 East. 460. it was held that a Huntsman attending his Master was not liable to the Penalties. The general question came more fully before the Court in *Lewis v. Taylor*, 16 East. 49. where the Defendant was out coursing with a qualified man, and took an active part in the sport by beating the Bushes, and took up the Game after it had been killed; and it was ruled that he was not liable to the Penalty of the Statute. Lord Ellenborough said, "There is no Evidence against this Defendant of using a Greyhound for killing the Game. This is not a solitary amusement, and there is nothing to prevent a qualified person from taking others to assist him in the pursuit of the Game, and he is the person using the Dogs; the others have no other use of them than as his Servants, and contemplating with him the pleasures of the chase. If indeed, an unqualified man had used his own Greyhounds for the purpose of sporting, though in the same company with a qualified person, that case would admit of a different consideration. The picking up of the Hare after it is killed, is no using of the Dogs to kill Game." The other Judges agreed; and Bailey J. said, "The Defendant neither kept the Dog nor was it under his controul at the time it was used to kill the Hare." The Legislature seem to have had in view the variation of the judicial opinions above noticed. For by the Schedule of Assessed Taxes, 52 Geo. III. c. 93. a Duty is imposed upon any person who shall use any Dog, &c. or shall take or kill or assist in any manner in the taking or killing any Game: which enactment, by 54 Geo. III. c. 141. is repealed as to persons

by the justice or justices of the peace where such offence is committed as aforesaid, the person or persons (10.) so convicted shall forfeit the sum of five pounds (11.) one-half to be paid to the informer, and the other half to the poor of the parish where the same was committed; (12.) the same to be levied by distress and sale of the offender's goods, by warrant under the hand and seal of such justice or justices before whom such person or persons shall be convicted as aforesaid; and for want of such distress, (13.) the offender or offenders shall be sent to the house of correction for the space of three months for the first offence, and for every such other offence four months; and that it shall and may be lawful to and for any of her Majesty's justices of the peace in their respective counties ridings cities towns corporate or liberty, and the lords and ladies of his her or their or any of their respective manors within the said manors to take away any such hare pheasant partridge moor heath game or grouse or any other game, from any such higlar chapman innkeeper victualler or carrier or any other person or persons not qualified to kill the same, and shall be found in their custody or possession; and likewise to take away such dogs (14.) nets or other engines (15.) which shall be in the power or custody of any person or persons not qualified by the laws to keep the same to their own proper use, without being accountable to any person or persons for the same; and that it shall and may be lawful for any lord or lady of his or her respective lordship or manor, by writing under his or her hand and seal, to empower his or her gamekeeper or gamekeepers upon his or her own lordship or manor as aforesaid, (16.) to kill hare pheasant partridge or any other game whatsoever; (17.) but if the said gamekeeper shall under colour or pre-

No. XXIX.

5 Anne,
c. 14.

Justices or
Lords of Ma-
nors, &c. may
take away any
Hare, &c. from
Person not qual-
ified; and also
their Dogs,
Nets, &c.

siding and assisting, provided it be in the presence and for the use of another person who has obtained a Certificate in his own right; and who therein shall use his own Dog, Gun, &c.

The Declaration in an Action on this Clause usually avers, that the Defendant used a Gun, &c. being an engine for the destruction of Game, to kill and destroy the Game: but in *Avery v. Hoole*, Cowp. 825. it was held that the Allegation that he "used a Gun, being an engine for the destruction of Game," though bad on Demurrer was cured by Verdict, and should be construed as averring that the engine was used for the destruction of Game.

(9.) The Defendant may be convicted on his own Confession, although not so expressed in the Act. *R. v. Gage*, 1 Str. 546.

(10.) There can be only one Penalty against several persons for using a Greyhound at one time, as it is only one offence. *Rex v. Bleasdale*, 4 T. R. 809.

(11.) A person can only incur one Penalty in the same day, whatever number of Hares, &c. he may kill. *Q. v. Mathews*, 10 Mod. 26. *Marrott v. Shawe*, Ave R. 274. And a person can only be convicted in one Penalty for keeping and using a Gun, and also a Dog, on the same day. *R. v. Lovet*, 7 T. R. 152. Several Penalties for distinct Offences may be included in one Conviction: *Rex v. Swallow*, 8 T. R. 284.

(12.) If a party, being in one Parish, shoot into another, the Offence is committed in the Parish in which he stands. *R. v. Alsop*, Sho. 339.

(13.) An Action of Trespass was maintained against a Justice, for committing a person who had Effects which might have been distrained, immediately upon Conviction, without endeavouring to levy the Penalty on his Goods. *Hill v. Bateman*, 2 Str. 710.

(14.) A Magistrate who convicts an unqualified person of killing Game under the Stat. 5 Anne, c. 14. and causes his Dog to be brought for the purpose of seizing it, may order the Dog to be killed without any formal adjudication of Seizure. *Kingsworth v. Bretton*, 5 Taunt. 416. 8 C. 1 Marsh, 106.

(15.) A Justice of Peace may take a Gun used by an unqualified person, *Devensh. v. Mertun*, 7 Mod. 215., but not the Gun of a Gamekeeper, although he be not within his own Manor. *Rogers v. Carter*, 2 Wils. 286. he cannot enter a house to search for Engines, &c. See *Briggs v. Evelyn*, 2 H. B. 114.

(16.) The Courts will not permit the Title or Boundaries of a Manor to be tried in an Action for Penalties on the Game Laws, provided there is any colourable Title; but it is otherwise when there is no pretence of Title, and there has been no other Exercise of Right than the granting of the particular Deputation. *Calcraft v. Gibbs*, 4 T. R. 681. and *Hawkins v. Bailey*, and *Blunt v. Grimes*, there cited. And upon the new Trial in *Calcraft and Gibbs*, 5 T. R. 19. it appeared that the person making the appointment had purchased an Estate within the Manor from the Lord, who agreed that he should have the Deputation of the Manor: this was held not to be such a colour of Title as would excuse the Gamekeeper. Lord Kenyon said, "A man cannot convey to another the power of appointing a Gamekeeper, without a conveyance also of the Manor itself. Such a power is a mere emanation of the Manor, and is inseparable from it. It is a mere shadow, accompanying the substance."

(17.) Seemly, that a Lord of a Manor, although not qualified by Estate, may kill Game within his Manor, but not elsewhere. See *Mallock v. Eastley*, 7 Mod. 482; and Cases referred to, Chitty, 42.

No. XXIX.

5 Anne,
c. 14.

This Act made
perpetual by
9 Ann. c. 25.
as altered by
that Act.

tance of the said power and authority to kill or take the same for the use of such lord or lady and afterwards sell or dispose thereof to any person or persons whatsoever without the consent or knowledge of the lord or lady of such manor or manors that hath given such power or authority in manner as aforesaid, and shall be thereof convicted upon the complaint of such lord or lady of any manor, and upon the oath of one or more credible witnesses before any one or more of her Majesty's justices of the peace as aforesaid, upon such conviction such gamekeeper shall be committed to the house of correction for the space of three months, and there to be kept to hard labour. And this Act shall remain and be in force for the space of three years from the first day of May one thousand seven hundred and seven, and from thence to the end of the next sessions of Parliament and no longer.

V. [No heath ling or brakes to be burnt in Forest of Sherwood without licence of owner.—None to buy fern ashes on penalty.—Justices to issue their warrants for offenders.]

[No. XXX.] 9 Anne, c. 25. A. D. 1710.—An Act for making the Act of the Fifth Year of her Majesty's Reign, for the better Preservation of the Game, perpetual, and for making the same more effectual.

9 Anne, c. 25.
5 Anne, c. 14.
made perpetual.

Lords of Manors shall appoint but one Gamekeeper in one Manor, whose Name shall be entered with the Clerk of the Peace.

‘ WHEREAS the Act made in the fifth year of her Majesty's reign, intituled *An Act for the better Preservation of the Game*, will expire at the end of this present session of Parliament unless the same be continued: And whereas the said Act hath been found to be an useful law for the preservation of the game of this kingdom: Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That the said recited Act and all the clauses matters and things therein contained shall stand in full force and virtue and be continued and deemed and taken to be a perpetual law subject nevertheless to the additions or alterations hereinafter in this Act contained: That is to say, Whereas by the said recited Act any lord or lady of a manor might appoint several gamekeepers in the same manor and every one of the gamekeepers so appointed might kill any game in the same manor; for the preventing therefore of the destruction of the game of this kingdom, which may happen by appointing several gamekeepers in the same manor with authority to kill the game therein; Be it further enacted by the authority aforesaid, That from and after the first day of May one thousand seven hundred and eleven no lord or lady of a manor shall make constitute or appoint above one person to be a gamekeeper within any one manor with power or authority to kill or destroy the game thereof; and that the name of such person so to be authorised to kill the game shall from time to time be entered with the clerk of the peace for the time being of the county riding or division wherein such manor doth lie, such entry to be made and viewed without fee or reward, and a certificate thereof to be granted by the clerk of the peace upon payment of one shilling for the same; and in case any other gamekeeper whose name shall not be so entered as aforesaid who shall not be otherwise qualified by the laws of this kingdom to kill game shall presume to kill any hare pheasant partridge moor heath game or grouse, or if any gamekeeper or gamekeepers or other person or persons whatsoever, not being qualified in his own right to kill game, shall sell or expose to sale any hare pheasant partridge moor heath game or grouse, the respective offender or offenders herein shall for every such offence incur such forfeitures pains and penalties as are inflicted by the said recited Act upon higlers carriers innkeepers or victuallers for buying or selling of game; such forfeitures to be recovered by such means and in such manner and form and within such time and to such uses as are prescribed by the said Act; any thing in the said recited Act or in any other law or statute to the contrary thereof in any wise notwithstanding.

II. And be it further enacted by the authority aforesaid, That if any hare pheasant partridge moor heath game or grouse shall be found in the shop house or possession (1.) of any person or persons whatsoever, not qualified in his own right to kill game or being entitled thereto under some person so qualified, the same shall be adjudged deemed and taken to be an exposing thereof to sale within the true intent and meaning of this and the said recited Act; (2.) any thing in this or in the said recited Act to the contrary thereof in any wise notwithstanding.

any unqualified Person, &c. it shall be judged an exposing to Sale.

III. And be it further enacted by the authority aforesaid, That if any person or persons whatsoever shall take kill or destroy any hare pheasant partridge moor heath game or grouse in the night-time, the person or persons so offending shall likewise for every such offence incur such forfeitures pains and penalties as aforesaid, to be recovered likewise by such means within such time and to such uses as aforesaid.

No. XXX.

9 Anne,
c. 25.

If any Hare,
&c. be found in
the Shop, &c. of

Killing any
Hare, &c. in
the Night, to
incur the like
Forfeitures.

10 Geo. 2. c. 32.

No Person
shall, between
1 July and
1 Sept. take
any Wild Duck,
&c. by Hayes,
&c. on Forfeiture
of 5s. for
each Wild
Fowl, &c.

IV. And whereas very great numbers of wild fowl of several kinds are destroyed by the pernicious practice of driving and taking them with hayes tunnels and other nets in the fens lakes and broad waters where fowls resort in the moulting time, and that at a season of the year when the fowl are sick and moulting their feathers and the flesh unsavoury and unwholesome, to the prejudice of those that buy them and to the great damage and decay of the breed of wild fowl; Be it therefore further enacted by the authority aforesaid, That if any person or persons whatsoever, between the first day of July and the first day of September, as they shall yearly happen, shall by hayes tunnels or other nets drive and take away any wild duck teal widgeon or any other fowl commonly reputed water fowl, in any of the fens lakes broad waters or other places of resort for wild fowl in the moulting season, such person or persons who shall so offend and thereof shall be convicted before any one or more of her Majesty's justices of the peace for the county where such offence shall be committed by the oath of one or more credible witness, shall for every wild duck teal or other water fowl so taken as aforesaid forfeit and pay the sum of five shillings; one moiety thereof to be paid to the informer and the other moiety to the poor of the parish where such offence shall be committed; the same to be levied by distress and sale of the offender's goods by warrant under the hand and seal of the justice and justices of the peace before whom the offender shall be convicted, rendering the overplus if any be above the penalty and charge of distress; and for want of distress the offender or offenders shall be committed to the house of correction for any time not exceeding one month nor less than fourteen days, there to be whipt and kept to hard labour; and the justice or justices of the peace before whom such person or persons so offending shall be convicted shall order such hayes nets or tunnels that were used in driving and taking the said wild fowl as aforesaid to be seized and immediately destroyed in the presence of such justice or justices.

[No. XXXI.] 3 George I. c. 11.—An Act to explain and amend several Laws therein mentioned, for the better Preservation of the Game.

I. WHEREAS by an Act made in the fifth year of the reign of her late Majesty Queen Anne, intituled "An Act for the better preservation of the Game," it is enacted, that it shall and may be lawful for any lord or lady of his or her respective lordship or manor by

3 George I.
c. 11.

5 Ann. c. 14.
and

(1.) Judgment for Plaintiff in an Action for having in Possession, although objected that the Statute only makes it Evidence of an exposing to Sale. *Jones v. Bishop*, 191. A Servant employed to detect Poachers, taking up a Hare killed by strangers, for the purpose of taking it to the

Lord, has not such a Possession as will subject him to a Penalty. *Warrford v. Kendall*, 10 E. 19.
(2.) And by relation to Stat. 5 Anne, the Penalty is incurred for every Hare, &c. *Blust v. Needs*, Com. Rep. 532.

No. XXXI.

3 Geo. I.

c. 11.

9 Anne, c. 25.

No Lord of a Manor shall appoint any Gamekeeper, with Power to kill the Game, except he be qualified so to do, or be a Servant, &c.

Nor to keep any Greyhound, &c.

Unqualified Persons killing the Game shall be liable to the Forfeitures in the recited Acts.

' writing under his or her hand and seal to empower his or her game-keeper or gamekeepers upon his or her own lordship or manor to kill hare pheasant partridge or any other game whatsoever; which power of appointing several gamekeepers in the same manor with power to kill game was found by experience to tend very much to the destruction of the game of this kingdom: for the preventing whereof by one other Act of the ninth year of the reign of her said late Majesty Queen Anne, intituled "An Act for making the Act of the fifth year of her Majesty's reign for the better preservation of the game perpetual, and for making the same more effectual," it was enacted, that no lord or lady of any manor shall make constitute or appoint above one person to be a gamekeeper within any one manor, with power or authority to kill or destroy the game thereof; and that the name of such person so to be authorised to kill the game, shall from time to time be entered with the clerk of the peace of the county riding or division wherein such manor does lie, which power of appointing a gamekeeper so to be entered as aforesaid, was manifestly designed to no other intent or purpose whatsoever but that any lord or lady might appoint such person as he or she should think proper to kill the game upon his or her own lordship or manor for the sole and proper use of the said lord or lady; such gamekeeper being expressly restrained by the said first-recited Act from selling or disposing of any game to any person or persons whatsoever, without the consent or knowledge of the said lord or lady of such manor or manors that had given such power and authority as aforesaid: And whereas under colour and pretence of the said power and authority to kill or take game for the use of the lords or ladies of any manor, it is become usual and frequent in several parts of the kingdom for lords and ladies of manors to grant powers and deputations to the farmers tenants and occupiers of the lands and estates lying within the precincts of their respective manors to be gamekeepers, with power to kill and destroy the game; which practice is a very great abuse of the powers intended by the said Acts to be granted, and manifestly tends very much to the destruction of the game of this kingdom; For remedy whereof, Be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That from and after the tenth day of July one thousand seven hundred and seventeen no lord or lady of any manor shall make constitute or appoint any person to be a gamekeeper, with power and authority to take and kill hare pheasant partridge or any other game whatsoever, unless such person be qualified by the laws of this realm so to do, or unless such person be truly and properly a servant to the said lord or lady, or such person be immediately employed and appointed to take and kill the game for the sole use or benefit of the said lord or lady, and not otherwise: and that no lord or lady of any manor shall authorise or qualify any person or persons whatsoever not being qualified by the laws of this realm so to do, to take or kill any hare pheasant partridge or other game whatsoever, or to keep or use any greyhound setting-dogs hays lurchers guns tunnels or any other engine to kill and destroy the game; and that any person or persons whatsoever not being qualified by the laws so to do, or not being truly and properly a servant of any lord or lady of a manor, or not immediately employed and appointed to take and kill the game for the sole use or immediate benefit of the said lord or lady, who under colour or pretence of any power or authority deputation or qualification to him granted by any lord or lady of a manor, shall take or kill any hare pheasant partridge or other game whatsoever, or shall keep or use any greyhounds setting-dogs hays lurchers guns tunnels or any other engine to kill and destroy the game being thereof legally convicted shall for every such offence incur such forfeitures pains and penalties as are appointed to be inflicted by the said recited Acts of the fifth and ninth years of the reign of the late Queen Anne; such forfeitures to be recovered by such means and in such manner and form, and within such time and to such uses as are

prescribed by the said recited Acts; any thing in the said Acts or in any other law or statutes to the contrary thereof in any wise notwithstanding.

II. And be it further enacted by the authority aforesaid, That the said recited Acts of the fifth and ninth years of the reign of her said late Majesty Queen *Anne*, and all other laws now in force for the better preservation of the game and all matters powers and things therein contained, not hereby altered and repealed, shall continue remain and be in full force.

No. XXXI.

3 Geo. I.
c. 11.

The recited
Acts shall re-
main in Force.

[No. XXXII.] 5 Geo. I. c. 15. A. D. 1718.—An Act for making more effectual an Act of the Third and Fourth Years of the Reign of King *William* and Queen *Mary*, intituled ‘An Act for the more effectual Discovery and Punishment of Deer-stealers.’

[No. XXXIII.] 5 George I. c. 28. A. D. 1718.—An Act for the further Punishment of such Persons as shall unlawfully kill or destroy Deer in Parks, Paddocks, or other inclosed Grounds.

[No. XXXIV.] 8 George I. c. 19. A. D. 1721.—An Act for the better Recovery of the Penalties inflicted upon Persons who destroy the Game.

FOR rendering more effectual the laws now in being for the better preservation of the Game, Be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That whosoever any person shall for any offence to be hereafter committed against any law now in being for the better preservation of the game be liable or subject to pay any pecuniary penalty or sum of money upon conviction before any justice or justices of the peace, it shall and may be lawful for any other person whatsoever either to proceed to recover the said penalty by information and conviction before a justice or justices of the peace in such manner as is in such law contained, or to sue for the same by action of debt or on the case bill plaint or information in any of his Majesty's courts of record, wherein no essoign protection wager of law or more than one imparlance shall be allowed, and wherein the plaintiff if he recovers shall likewise have his double costs. (1.)

II. Provided, That all suits and actions to be brought by force of this Act shall be brought before the end of the next term after the offence committed; and that no offender against any of the laws now in being for the better preservation of the game shall be prosecuted for the same offence, both by the way prescribed by this law and by the way prescribed by any of the said former laws; and that in case of any second prosecution the person so doubly prosecuted may plead in his defence the former prosecution pending, or the conviction or judgment thereupon had.

8 George I.
c. 19.

Whereas
any Person
shall be liable
to any pecu-
niary Penalty,
any other Per-
son may re-
cover the Pe-
nalty by Infor-
mation before
a Justice, or
sue for the
same, &c. See
2 East's Rep.
333.

Actions to be
brought before
the End of the
Term after the
Offence com-
mitted. Altered
by 2 Geo. 3.
c. 19. § 5. See
2 East's R. 333.

(1.) The action may be brought against several defendants, and the verdict taken against some, and the others acquitted: *Hardyman v. Whitacre*, 2 E. 573.

[No. XXXV.] 9 George I. c. 22. A. D. 1722.—An Act for the more effectual punishing wicked and evil-disposed Persons going armed in Disguise, and doing Injuries and Violences to the Persons and Properties of his Majesty's Subjects, and for the more speedy bringing the Offenders to Justice.

[Inserted in Part V.]

No.
XXXVI.
10 Geo. II.
c. 32.

3.

[No. XXXVI.] 10 George II. c. 32. A.D. 1737.—An Act for continuing ' An Act for the more effectual punishing wicked and evil-disposed Persons going armed in Disguise, and doing Injuries and Violences to the Persons and Properties of his Majesty's Subjects, and for the more speedy bringing the Offenders to Justice ; ' * * * * * and for the more effectual Punishment of * * * * * Persons unlawfully hunting or taking any Red or Fallow Deer in Forests or Chases, or beating or wounding Keepers or other Officers, in Forests, Chases, or Parks ; and for more effectually securing the Breed of *Wild-fowl*.

10 George II.
c. 32.
9 Ann, c. 25.

X. ' AND whereas by an Act of Parliament passed in the ninth year of the reign of her late Majesty Queen *Anne*, intituled " An Act for making an Act of the fifth year of her Majesty's reign, for the better preservation of the Game, perpetual, and for making the same more effectual," it is enacted, That if any person between the first day of *July* and first day of *September* in any year shall by hayes tunnels or other nets drive and take any wild-duck teal widgeon or any other water-fowl in any places of resort for wild-fowl in the moulting season, the offender being convicted thereof before one justice of the peace where the offence shall be committed and by the oath of one credible witness shall forfeit five shillings for every such fowl so taken, one moiety to the informer the other to the poor of the parish where the offence was done, to be levied by a warrant of the justice of peace before whom the offender was convicted, by distress and sale of his goods, and for want of distress to be committed to the house of correction for any time not exceeding one month nor less than fourteen days, there to be whipt and kept to hard labour ; and the justice of the peace shall cause such hayes and nets to be seized and immediately destroyed in his presence: And whereas the said Act hath been found by experience to be ineffectual, by reason that the wild-fowl begin to moult before the first of *July* and have not done moulting by the first of *September*, so that great numbers of wild-fowl are yearly destroyed contrary to the true intent and meaning of the said Act ; Therefore for remedy thereof be it enacted by the authority aforesaid, That if any person shall in any year between the first day of *June* and the first day of *October* by hayes tunnels or other nets drive and take any wild-duck teal widgeon or any other water-fowl in any marshes fens or other places of resort for wild-fowl, and shall be thereof convicted in such manner as in the said Act of the ninth year of her late Majesty Queen *Anne* is prescribed, he shall be liable to the same penalties to be levied in like manner as by virtue of the said Act he would be liable to if such offence was committed between the first day of *July* and the first day of *September*, and for want of distress be committed to the house of correction and there punished as by the said Act is directed.

Penalty on taking
Wild-fowl
in Nets, in the
moulting Season.

[The Sections relating to Hunting and wounding Keepers are inserted in Part V.]

[No. XXXVII.] 26 George II. c. 2. A. D. 1753.—An Act to amend an Act made in the Eighth Year of the Reign of his late Majesty King *George* the First, intituled ' An Act for the better Recovery of the Penalties inflicted upon Persons who destroy the Game,' by enlarging the Time within which Suits and Actions are to be brought by force of the said Act.

26 Geo. II. c. 2.
8 Geo. I. c. 19.

WHEREAS by an Act of Parliament made in the eighth year of the reign of his late Majesty King *George*, intituled " An Act for the

'better Recovery of the Penalties inflicted upon persons who destroy the Game,' it is provided that all suits and actions to be brought by force of the said Act shall be brought before the end of the next term after the offence committed: and whereas the time allowed by the said Act for the bringing of such suits and actions has been found very inconvenient, and in many cases is not sufficient for the commencing of prosecutions against offenders, whereby the intent of the said Act hath been in some degree defeated; Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That all suits and actions to be brought by virtue of the said Act for the recovery of any pecuniary penalty or sum of money for offences which after the twenty-fifth day of March one thousand seven hundred and fifty-three shall be committed against any law now in being for the better preservation of the game, shall and may be brought before the end of the second term after the offence committed; (1.) any thing in the said Act contained to the contrary notwithstanding.

No.
XXXVII.
26 Geo. II.
c. 2.

Suits for Penalties may be brought before the end of the second Term. Altered by 2 Geo. 3. c. 19. which allows Six Months. See 2 East's Reports, 333.

(1) *Seamble*, that a declaration for a penalty on killing Game in an Action brought for the whole penalty on the Statute 2 Geo. 3. c. 19. § 5. and prior Statutes, need not allege the fact to have been committed within two terms before the Action commenced, according to Stat. 26 Geo. 2. c. 2; the Stat. 2 Geo. 3. c. 19. having allowed six months. *Lee v. Clarke* (in Error) 2 E. R. 333.

[No. XXXVIII.] 28 George II. c. 12. A. D. 1755.—An Act to explain and amend a Clause in an Act made in the Fifth Year of the Reign of Queen *Anne*, intituled, 'An Act for the better Preservation of the Game,' in Relation to the selling or offering to Sale any Game.

WHEREAS by an Act of Parliament made in the fifth year of her late Majesty Queen *Anne*, intituled "An Act for the better preservation of the Game," it was enacted, That if any higlar chapman carrier innkeeper victualler or alehousekeeper should have in his custody or possession, or should buy sell or offer to sell any hare pheasant partridge moor heath-game or grouse, every such higlar chapman innkeeper victualler alehousekeeper or carrier (unless such game in the hands of such carrier be sent by any person or persons qualified to kill the game) shall upon conviction of such offence forfeit for every hare pheasant partridge moor heath-game or grouse the sum of five pounds, one half to be paid to the informer and the other to the poor of the parish where the offence was committed: And whereas doubts have arisen with respect to the meaning of the word chapman, whereby the intent of the said Act hath been in some degree defeated; Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That if any person or persons whatsoever, whether qualified or not qualified to kill game, shall sell expose or offer to sale any hare pheasant partridge moor heath-game or grouse, every such person or persons shall for every such offence be subject and liable to the same forfeitures pains and penalties as are inflicted by the said recited Act upon higlars chapmen carriers innkeepers victuallers or alehousekeepers for buying selling or offering of game to sale.

28 George II.
c. 12.
5 Ann, c. 14.

Persons selling or exposing to Sale any Game, liable, &c.

II. And be it further enacted by the authority aforesaid, That if any hare pheasant partridge moor heath-game or grouse shall be found in the shop house or possession of any poulterer salesman fishmonger cook or pastry-cook, the same shall be adjudged deemed and taken to be an exposing thereof to sale within the true intent and meaning of this Act and the said recited Act or any other Act; which said forfeitures shall

Game found in the House or Possession of a Poulterer, &c. deemed exposing thereof to Sale.

No.
XXXVIII.
28 Geo. II.
c. 19.

be recovered and such penalties inflicted by such means and in such manner and from and within such time and shall be applied to such uses as are prescribed by the said recited Act or by any other Act or Acts since made for the preservation of the game; any thing in the said recited Act, or any other law or statute to the contrary thereof in any wise notwithstanding.

[No. XXXIX.] 2 George III. c. 19. A. D. 1761.—An Act for the better Preservation of Game in that part of Great Britain called *England*.

2 George III.
c. 19.

No Person may take, &c. any Partridge between 12 Feb. and 1 Sept. or Pheasant between 1 Feb. and 1 Oct. or Heath-fowl between 1 Jan. and 20 Aug. or Grouse between 1 Dec. and 25 July.

‘FOR the better preservation of the Game in this kingdom, may it please your most excellent Majesty that it may be enacted;’ and be it enacted by the King’s most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons in this present Parliament assembled, and by the authority of the same, That no person or persons after the first day of June one thousand seven hundred and sixty-two shall upon any pretence whatsoever take kill destroy carry sell buy or have in his her or their possession or use any partridge between the twelfth day of February and the first day of September in any year; or any pheasant between the first day of February and the first day of October in any year; or any heath-fowl commonly called black game between the first day of January and the twentieth day of August in any year; or any grouse commonly called red game between the first day of December and the twenty-fifth of July in any year.

Repealed as to black and red Game, by 13 Geo. 3. c. 55. § 13.

II. Provided always, That nothing in this Act shall extend to any pheasant which shall be taken in the season allowed by this Act, and kept in any mew or breeding place.

III. Provided also, That nothing in this Act contained shall extend or be construed to extend to that part of *Great Britain* called *Scotland*.

Persons of-
fending forfeit
5*l*. per Bird.

IV. And be it further enacted by the authority aforesaid, That if any person or persons shall transgress this Act in any of the aforesaid cases and shall be lawfully convicted thereof by the oath of one or more credible witness or witnesses, every such person shall for every partridge pheasant heath-fowl or grouse so taken killed destroyed carried sold bought or found in his her or their possession or use contrary to the true intent and meaning of this Act forfeit and pay the sum of five pounds to the person or persons who shall inform or sue for the same: and it shall and may be lawful to and for any person or persons to sue and prosecute for and recover the said penalty of five pounds with full costs of suit by action of debt bill plaint or information in any of his Majesty’s courts of record at *Westminster*; and in such action or suit no essoign wager of law or more than one imparlance shall be allowed. (1.)

8 Geo. 1. c. 19.

V. ‘And whereas by an Act passed in the eighth year of the reign of his late Majesty King George the First, intituled *An Act for the better Recovery of the Penalties inflicted upon Persons who destroy the Game*; it was enacted, That wheresoever any person shall for any offence to be hereafter committed against any law now in being for the better preservation of the game be liable or subject to any pecuniary penalty or sum of money upon conviction before any justice or justices of the peace, it shall and may be lawful for any other person whatsoever either to proceed to recover the said penalty by information and conviction

(1.) Assuming it to be necessary in an action for a Penalty by a common Informer that the Court should refer to the Statute giving the remedy, as well as to that creating the Offence and giving the Penalty; yet a Count for a Penalty on the Stat. 5 Anne, c. 14. stating that the Defendant kept a snare to kill Game against the form of the Statute in such case made, &c. by reason whereof, and by force of the Statute in such case

made, &c., an Action hath accrued, &c. is sufficient; for the first Statute mentioned refers to the 5 Anne, c. 14. creating the Offence and giving the Penalty; and the Statute lastly mentioned refers to the 2 Geo. 3. c. 19. whereby the whole Penalty is given to the common Informer, the half only of which had been given to him by an intervening Statute. *Clanricarde* (Earl) v. *Stokes*, 7 E. R. 516.

before a justice or justices of the peace in such manner as in such law contained, or to sue for the same by action of debt or on the case bill plaintiff or information in any of his Majesty's courts of record: And whereas a moiety or portion of the said pecuniary penalty is by several Acts of Parliament directed to be applied to and for the use of the poor of the parish wherein such offence shall be committed, by reason whereof inhabitants of the said parish have been disallowed to give evidence touching such offences; and whereas suits by action of debt or on the case bill plaintiff or information are often attended with great costs and charges to the prosecutor, by means whereof the end or intentions of the said Act have been in a great measure frustrated; For remedy whereof, Be it enacted by the authority aforesaid, That from and after the passing of this Act it shall and may be lawful for any person whatsoever to sue for and recover the whole of such penalty for his own use by action of debt or on the case bill plaintiff or information in any of his Majesty's courts of record at *Westminster*, wherein no essoign wage of law or more than one imparlance shall be allowed; and wherein the plaintiff if he recovers shall have his double costs; and that no part of the said penalty recovered in any such suit or action shall be paid or applied to or for the use of the poor of the parish wherein such offence shall be committed; any law or usage to the contrary notwithstanding. (2.)

No.
XXXIX.
2 Geo. III.
c. 19.

Pecuniary Penalties under the said Act may be sued for, to sole Use of Prosecutor, &c.

VI. Provided always and be it enacted, That no such action suit bill
 complaint or information shall be brought or exhibited but within the space
 of six months (3.) next after the matter or thing done, for which the same
 shall be commenced or exhibited as aforesaid.

Prosecution
 within Six
 Months.

(2.) As to the manner of laying the Offence and right of Action to be against the Statute or Statutes, see *Lord Clanrickarde v. Stokes*, 7 E. 516; and see *Lee v. Clarke*, 2 East, 333.

necessary to aver in the Declaration that the Action was commenced within Six Months, and if alleged to be within Six Calendar Months it is no objection: *Lee v. Clarke*, 2 East, 333.

(3.) This means lunar months; but it is not

[No. XL.] 2 George III. c. 29. A. D. 1761.—An Act to amend so much of an Act made in the First Year of the Reign of King *James* the First, intituled, “ An Act for the better Execution of the Intent and Meaning of former Statutes made against Shooting in Guns, and for the Preservation of the Game of Pheasants and Partridges, and against the destroying of Hares with Hare-pipes, and tracing Hares in the Snow,” as relates to the Preservation of House Doves and Pigeons, by making the Manner of convicting such Person or Persons as shall offend therein more easy and expeditious.

WHEREAS by an Act made in the first year of the reign of his Majesty King James the First, intituled *An Act for the better Execution of the Intent and Meaning of former Statutes made against Shooting in Guns, and for the Preservation of the Game of Pheasants and Partridges, and against the destroying of Hares with Hare-pipes, and tracing Hares in the Snow*, it is amongst other things therein enacted, That all and every person and persons who shall kill or destroy any house-dove or pigeon and shall be thereof convicted by the confession of the party or by the testimony of two sufficient witnesses upon oath before two or more justices of the peace of the county city or town corporate wherein the offence shall be committed or the parties apprehended, such justices shall commit every such offender so apprehended to the common gaol of the said county city or town corporate where the offence shall be committed or the party apprehended, there to remain for three months without bail or mainprize, unless that the said offender do or shall forthwith upon the said conviction pay or cause to be paid

2 George III.
c. 29.

1 Jac. L. c. 27.

No. XL.
3 Geo. III.
c. 39.

Any Person
who shall wil-
fully shoot at or
destroy any
House-doves or
Pigeons belong-
ing to other Per-
sons shall for-
feit on Con-
viction 20s. to the
Prosecutor, &c.

Owners of
Dove-cotes,
&c. excepted.

'to the churchwardens of the said parish where the said offence shall be committed or the party apprehended, to the use of the poor of the said parish the sum of twenty shillings for every house-dove or pigeon, which every such person or persons so offending and convicted as aforesaid shall take kill or willingly destroy contrary to the true purport and meaning of that Act; or after one month after his commitment, together with two sufficient sureties become bound by recognisance in the sum of twenty pounds a-piece to the King's Majesty's use his heirs and successors, with condition that he the said party so offending shall not at any time thereafter shoot at kill take or destroy any house-dove, or pigeon by any such means as in the said Act are mentioned; which said recognisance shall be taken by any two or more justices of the peace of the said county city or town corporate where the offender shall be so imprisoned as aforesaid and shall be returned to the then next quarter sessions, and there to remain of record as other recognisances taken for the peace as by the said in part recited Act, relation for greater certainty being thereunto had may more fully appear: And whereas the method of convicting offenders against the above-recited Act hath hitherto been found in a great degree ineffectual to answer the good intentions of the said Act; Therefore for more speedy convicting and punishing persons who shall be guilty of the said mischievous practice of wilfully killing or destroying house-doves or pigeons belonging to other persons, may it please your Majesty that it may enacted, and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That after the twenty-fourth day of June one thousand seven hundred and sixty-two if any person or persons shall shoot at with an intent to kill or shall by any means whatever kill or take with a wilful intent to destroy any house-dove or pigeon and shall be thereof convicted by the confession of the party offending or the oath of one or more credible witness or witnesses before one or more justice or justices of the peace of the county city town corporate division riding or place (which oath such justice or justices are hereby authorised to administer) wherein any such offence or offences shall be committed, or the party or parties offending shall be apprehended, every person so offending and who shall be convicted as aforesaid of any such offence shall for every such offence forfeit and pay the sum of twenty shillings to the person or persons who shall inform against and prosecute to conviction any such offender or offenders; and in case the money so forfeited shall not be forthwith paid on every such conviction, it shall and may be lawful for such justice or justices to commit any such offender or offenders who shall be so convicted as aforesaid to the common gaol of the county or the house of correction in the division or place where the party is convicted or apprehended, there to remain and be kept to hard labour for any time not exceeding three calendar months nor less than one calendar month as any such justice or justices shall order, unless the money forfeited shall be sooner paid.

II. Provided always and it is hereby also enacted, That nothing in this Act contained shall be construed deemed or taken to hinder any owner of a dove-cote pigeon-house pigeon-chamber or any other place built up or erected or to be built up or erected for the preservation or breeding of pigeons, from taking killing or destroying by himself or any other person by him appointed or authorised for that purpose, all or any house-doves or pigeons which shall at any time be taken in the proper dove-cote pigeon-house pigeon-chamber or any other place as aforesaid, for the preservation or breeding of pigeons of any owner of such dove-cote pigeon-house pigeon-chamber or other place.

III. Provided further and it is hereby also enacted, That no person who shall be convicted of any offence against this Act shall be liable to be convicted for any such offence under any former or other Act; and that no person shall be prosecuted for any offence against this Act unless the prosecution for the same shall be commenced and carried on with effect within the space of two calendar months after every such offence

shall be committed; and that where any person shall suffer imprisonment for default of payment of any penalty imposed under this Act such person shall not be liable afterwards to pay such penalty.

No. XL:
2 Geo. III.
c. 29.

[No. XLI.] 5 George III. c. 14. A. D. 1765.—An Act for the more effectual Preservation of Fish in Fish-ponds and other Waters; and Conies in Warrens; and for preventing the Damage done to Sea Banks within the County of Lincoln, by the breeding Conies therein.

VI. **AND** whereas there are many thousand acres of land in this kingdom altogether unfit for cultivation, and yet the same are capable of rendering great profit by the breeding and maintaining conies, as well to the owners of such lands as to a multitude of industrious manufacturers who gain their livelihood by working up coney wool: And whereas a great part of the said land is already used as warrens in the breeding and maintaining Conies, but because divers disorderly persons neglecting their own lawful trades have betaken themselves to the taking killing and stealing of Conies in the night-time whereby the owners and occupiers of such warrens are greatly discouraged, and many such owners and occupiers have been induced to destroy such warrens and others have been deterred from stocking other lands to the great prejudice of the manufactures of this kingdom: And whereas the provisions already subsisting, have by experience been found insufficient for the effectual preservation of Conies in Warrens: For remedy thereof be it further enacted, That if any person or persons shall, from and after the first day of June one thousand seven hundred and sixty-five, wilfully and wrongfully in the night-time enter into any warren or grounds lawfully used or kept for the breeding or keeping of conies although the same be not inclosed, and shall then and there wilfully and wrongfully take or kill in the night-time any coney or conies, against the will of the owner or occupier thereof, or shall be aiding and assisting therein, and shall be convicted of the same before any of his Majesty's justices of oyer and terminer or general gaol delivery for the county where such offence or offences shall be committed; every such person or persons so offending and being thereof lawfully convicted in manner aforesaid shall and may be transported for the space of seven years, or suffer such other lesser punishment by whipping fine or imprisonment as the court before whom such person or persons shall be tried shall in their discretion award and direct.

5 George III.
c. 14.

Persons convicted of entering Warrens in the Night-time, and taking or killing Conies there, may be punished by Transportation, &c.

[No. XLII.] 13 George III. c. 55. A. D. 1773.—An Act to explain and amend the several Laws now in being, so far as the same relate to the Preservation of the Moor or Hill Game.

WHEREAS the laws now in being relative to the preservation of the Moor or Hill Game have been found very insufficient to answer the purpose for which they were intended: And whereas some further regulations are become absolutely necessary to prevent the total destruction of that species of Game: May it please your Majesty that it may be enacted; and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That from and after the twenty-fourth day of June one thousand seven hundred and seventy-three no person or persons shall upon any pretence whatsoever wilfully take kill destroy carry sell buy or have in his her or their possession or use any heath fowl commonly called *Black Game*, between the tenth day of December and twentieth day of August in any year; nor any grouse commonly called *Red*

13 George III.
c. 55.

No Person to kill black Game between, &c.

No. XLII. *Game*, between the tenth day of *December* and the twelfth day of *August* in any year; nor any bustard between the first day of *March* and the first day of *September* in any year.

13 Geo. III.
c. 55.

Penalty.

II. And be it further enacted by the authority aforesaid, That from and after the said twenty-fourth day of *June* if any person or persons shall in any of the cases aforesaid offend contrary to the true intent and meaning of this Act, every such person shall upon due conviction for the first offence forfeit and pay any sum or sums of money not exceeding twenty pounds nor less than ten pounds; and for the second and every subsequent offence any sum or sums of money not exceeding thirty pounds nor less than twenty pounds; to be levied and recovered in manner as herein is after mentioned.

Forfeitures and Penalties.

III. And be it further enacted, That all such forfeitures and penalties so to be incurred as aforesaid shall and may be recovered by action of debt bill plaint or information in any of his Majesty's courts of record at *Westminster* or great sessions in *Wales*, wherein no essoin protection nor wager of law nor more than one imparlance shall be allowed: Provided such action be brought within six calendar months after the matter or thing done for which the same shall be commenced or exhibited.

Information.

IV. And he it further enacted, That it shall and may be lawful for any person whatsoever (except the person liable to pay any such forfeitures or penalties) to proceed to recover any of the aforesaid forfeitures and penalties by information and conviction before any justice or justices of the peace of any county city corporation division riding precinct or liberty wherein the offence shall happen; and such justice or justices are hereby authorised and empowered upon due proof made upon oath by one or more credible witness or witnesses, or by the confession of the party accused, to cause the said forfeiture to be forthwith paid; and in case of neglect or refusal to levy the same by distress and sale of the offender's goods and chattels by warrant under his or their hand and seal or hands and seals together with all costs and charges attending the same, returning the overplus if any to the owner; and every such forfeiture when paid or recovered shall be applied one moiety to the informer and the other moiety to the poor of the parish where such offence shall have been committed; and it shall and may be lawful for such justice or justices to order such offender to be detained in safe custody until return may be conveniently had and made to such warrant of distress, unless the party so convicted shall give sufficient security to the satisfaction of such justice or justices for his appearance before him or them on the day appointed for the return of the warrant of distress, such day not exceeding five days from the time of taking such security; which security the said justice or justices is and are hereby empowered to take by way of recognisance or otherwise: And in case no sufficient distress can be had, such justice or justices shall commit such offender to the common gaol or house of correction, there to be kept to hard labour for any time not exceeding six nor less than three calendar months, unless the money forfeited and all costs and charges attending the prosecution shall be sooner paid and discharged.

V. Provided always and be it further enacted, That no offender against the provisions of this Act shall be prosecuted for the same offence both by action of law and by information before a justice of the peace; but in case of any second prosecution the person so doubly prosecuted may plead in his defence the former prosecution pending or the conviction or judgment thereupon had.

Conviction.

VI. ' And for the more easy conviction of offenders against this Act,' Be it further enacted, That the form of the conviction shall be drawn up in the following or like form of words:

' **B**E it Remembered, that on the _____ day of _____
in the year of our Lord
' A. B. having appeared before me, [or, us]
' _____ one or more of his Majesty's Justices of the
' Peace [as the case may be] for the county of _____



and due proof having been made upon oath by one or more credible witness or witnesses, or by confession of the party [as the case may be], is convicted of [specifying the offence, with the time and place where the same was committed, and also specifying, if known, that it is the first second or any subsequent offence against this Act, as the case shall be.]

Given under my hand and seal, [or, our hands and seals,] the day and year aforesaid.

Which conviction the said justice or justices shall cause to be wrote fairly upon parchment and returned to the next general quarter sessions of the peace for the county where such conviction was made, to be filed by the clerk of the peace and remain and be kept among the records of the county riding division or place.

VII. Provided always and be it further enacted, That it shall and may be lawful for any clerk of the peace for any county riding or place, and he is hereby required upon application made to him by any person or persons for that purpose, to cause a copy or copies of any conviction or convictions filed by him under the directions of this Act to be forthwith delivered to such person or persons upon payment of one shilling for every such copy.

VIII. And be it further enacted, That it shall and may be lawful for any such justice or justices of the peace as aforesaid to administer an oath to any witness or witnesses or other person or persons for the better discovery and execution of the several matters and things herein-before directed to be examined into or performed by such justice or justices respectively. Justices may administer an Oath.

IX. Provided always and be it further enacted, That no person shall be proceeded against for any of the offences aforesaid by information before a justice of the peace, unless such information shall be made upon oath before some justice of the peace for the county or place wherein such offence shall be committed within three calendar months after such offence shall have been committed.

X. And be it further enacted by the authority aforesaid, That if any person shall think himself or herself aggrieved by any thing done in pursuance of this Act by any justice or justices of the peace as aforesaid, every such person may appeal to the justices of the peace at any general quarter sessions of the peace to be held for the county riding city corporation precinct or liberty wherein the cause of such complaint shall arise and within four calendar months after the cause of such complaint shall have arisen, such appellant giving or causing to be given fourteen days notice at the least in writing of his or her intention to bring such appeal and of the matter thereof to the justice; and every other person or persons against whom such complaint shall be made and within four days after such notice entering into a recognisance before some justice of the peace for the said county riding division city corporation precinct or liberty with one sufficient surety conditioned to try such appeal at and abide the order of and pay such costs as shall be awarded by the justices at such quarter sessions; and every such justice and other person having received notice of such appeal shall return all proceedings had before them touching the matter of such appeal to the said justices at such quarter sessions, on pain of forfeiting five pounds for every such neglect; and the said justices upon due proof of the notice given and of the entering into such recognisance as aforesaid shall hear and finally determine the causes and matters of such appeal in a summary way, and award such costs to the parties appealing or appealed against as they shall think proper; to be levied and recovered as herein-before directed for the recovery of forfeitures and penalties under this Act; and the determination of such quarter sessions shall be final and conclusive to all intents and purposes; and no proceedings to be had or taken in pursuance of this Act shall be quashed or vacated for want of form or removed by *certiorari* or any other writ or process whatsoever, except as herein-before mentioned, into any of his Majesty's courts of record at Westminster, any law or statute to the contrary notwithstanding. Appeal.

No. XLII.

13 Geo. III.

c. 55.

* Not to extend
to Scotland.Limitation of
Actions.

General Issue.

Treble Costs.

Part of Act
2 Geo. 3. re-
pealed.

XI. And be it further enacted, That nothing in this Act contained shall extend to that part of *Great Britain* called *Scotland*.*

XII. And be it further enacted, That if any action suit or information shall be commenced or prosecuted against any person or persons for any thing which shall be done in pursuance of this Act or in execution of any of the powers or authorities hereby given, every such action suit or information shall be commenced or prosecuted within the space of six calendar months next after the fact committed, and shall be laid or brought in the county riding division or place where the matter shall arise and not elsewhere; and the defendant or defendants in every such action suit or information shall and may at his or their election plead specially or the general issue and give this Act and the special matter in evidence; and if a verdict shall be given for the defendant, or if the plaintiff or plaintiffs shall be nonsuited or discontinue his her or their action suit or information after the defendant or defendants shall have appeared; or if upon demurrer judgment shall be given against the plaintiff or plaintiffs, then the defendant or defendants shall recover treble costs and have such remedy for the same as any defendant or defendants hath or have in other cases by law.

XIII. And be it enacted by the authority aforesaid, That so much of an Act passed in the second year of his present Majesty's reign, intituled *An Act for the better Preservation of the Game in that Part of Great Britain called England*, as relates to heath-fowl commonly called black game, or grouse commonly called red game, shall be and is hereby repealed.

[No. XLIII.] 13 George III. c. 80. A. D. 1773.—An Act to repeal an Act made in the Tenth Year of the Reign of his present Majesty, intituled, “An Act for the better Preservation of the Game within that Part of *Great Britain* called *England*; and for making other Provisions in lieu thereof.”

13 George III.
c. 80.

Geo. 3. c. 19.

Rules to be ob-
served by
Persons killing
Hares, &c. or
using a Gun,
&c.

‘ WHEREAS by an Act passed in the tenth year of the reign of his present Majesty, intituled “An Act for the better preservation of the Game in that part of *Great Britain* called *England*,” certain penalties and punishments were inflicted on persons killing and destroying game in the night between one hour after sun-set and one hour before sunrise: and whereas some doubts have arisen concerning the construction of some parts of the said Act and some inconveniences have followed therefrom; Therefore, for obviating such doubts and for remedying such inconveniences, may it please your Majesty that it may be enacted, and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That from and after the twenty-fourth day of *June* one thousand seven hundred and seventy-three if any person or persons shall knowingly and wilfully kill take or destroy any hare pheasant partridge moor-game or heath-game, or use any gun dog snare net or other engine with intent to kill take or destroy any hare pheasant partridge moor-game or heath-game in the night, that is to say between the hours of seven of the clock at night and six in the morning, from the twelfth day of *October* to the twelfth day of *February*, and between the hours of nine of the clock at night and four in the morning, from the twelfth day of *February* to the twelfth day of *October*, every such person being convicted thereof upon the oath or oaths of one or more credible witness or witnesses before one or more justice or justices of the peace acting for the county riding or place where the offence shall be committed, shall forfeit and pay for the first offence, any sum not exceeding twenty pounds nor less than ten pounds, and for the second offence any sum not exceeding thirty pounds nor less than twenty pounds; but in case any information shall be made upon oath as aforesaid before any justice or justices against any person

offending against this Act, and if it shall appear that such offender hath already been convicted of a first and second offence against this Act, then and in such case such justice or justices shall and may commit such offender to the common gaol or house of correction for the county riding or place there to remain till the next general quarter session of the peace for the said county riding or place unless such offender shall have entered into a recognisance with two sufficient securities to appear at such general quarter session, then and there to be tried by indictment for the said offence; and also shall and may bind over the informer to prosecute the said offender by indictment as aforesaid; and the justices at their said general or quarter sessions shall and may direct the said indictment to be tried accordingly; and if upon such indictment such offender shall be convicted he shall forfeit and pay in court the sum of fifty pounds; and in case he shall neglect or refuse to pay the said sum of fifty pounds he shall be committed to the common gaol or house of correction for such county riding or place for any term not less than six nor more than twelve calendar months, unless such penalty shall be sooner paid; and such offender shall if the justices think proper be once publicly whipped for such offence at the expiration of such commitment in the town or place where such gaol or house of correction shall be, between the hours of twelve and one of the clock in the day.

II. And be it further enacted, That the justice or justices before whom any offender shall be convicted as aforesaid, shall cause the said conviction to be made out in the manner and form following; that is to say,

BE it Remembered, that on the _____ day of _____
 in the year of our Lord _____ A. B. is convicted
 before me _____ one of his Majesty's Justices of the Peace
 for the county of _____ [specifying the offence, with the time
 and place where the same was committed, and also specifying that it was
 the first or second offence against this Act, as the case shall be.] Given
 under my hand and seal the day and year aforesaid.

Form of Conviction.

Which conviction the said justice shall cause to be fairly wrote over upon parchment, and returned to the next general quarter sessions of the peace for the county riding or place where such conviction was made, to be filed by the clerk of the peace and remain and be kept among the records of the county.

III. Provided always and be it further enacted by the authority aforesaid, That it shall and may be lawful for any clerk of the peace for any county riding or place, and he is hereby required upon application made to him by any person or persons for that purpose, to cause a copy or copies of any conviction or convictions filed by him under the directions of this Act to be forthwith delivered to such person or persons upon payment of one shilling for every such copy.

Clerk to deliver a Copy of Conviction; and Payment of fee.

IV. And be it further enacted by the authority aforesaid, That the pecuniary penalties and forfeitures hereby to be incurred and made payable upon any conviction for a first and second offence against this Act, and also for a third offence upon conviction at the quarter sessions as aforesaid, together with the costs and charges previous to and attending such conviction to be ascertained by the justice or justices before whom any offender shall be convicted, shall be forthwith paid by the person convicted, one moiety of the forfeiture to the informer and the other moiety to the poor of the parish or place where the offence shall be committed: and in case such person shall refuse or neglect to pay the same, or to give security for the payment thereof, such justice or justices shall by warrant under his or their hand and seal or hands and seals cause the same to be levied by distress and sale of the offender's goods and chattels together with all costs and charges attending such distress and sale returning the overplus (if any) to the owner; and it shall and may be lawful for such justice or justices to order (i.) such offender to be detained in safe custody until return may conveniently be had and made to such

Penalties and Forfeitures.

No. XLIII.

13 Geo. III.

c. 80.

warrant of distress, unless the party so convicted shall give sufficient security to the satisfaction of such justice or justices for his appearance before the said justice or justices on such day as shall be appointed by the said justice or justices for the day of the return of the said warrant of distress, such day not exceeding seven days from the time of taking such security; which security the said justice or justices are hereby empowered to take by way of recognisance or otherwise: but if upon such return no sufficient distress can be had, then and in such case the said justice or justices shall and may commit such offender to the common gaol or house of correction of the county riding or place for the space of three calendar months, unless the money forfeited shall be sooner paid, or until such offender thinking him or herself aggrieved by such conviction shall give notice to the informer that he or she intends to appeal to the justices of the peace at the next general quarter sessions of the peace to be held for the county or place wherein the cause of complaint shall arise, and shall enter into recognisance before some justice or justices with two sufficient securities conditioned to try such appeal and to abide the order of (2.) and pay such costs as shall be awarded by the justices at such quarter sessions; which notice of appeal being not less than fourteen days before the trial thereof, such person so aggrieved is hereby empowered to give; and the said justices at such session upon due proof of such notice being given as aforesaid, and of the entering into such recognisance, shall hear and finally determine the causes and matters of such appeal in a summary way, and award such costs to the parties appealing or appealed against as they the said justices shall think proper; and the determination of such quarter sessions shall be final binding and conclusive to all intents and purposes whatsoever.

Provisions of
10 Geo. 3. c. 19.
repealed.

Penalties for
wilfully killing
Game, or using
a Gun on a Sun-
day or Christ-
mas-day.

How Penalties
for Offences
committed are
to be recovered.

V. And be it further enacted, That all the provisions of the said recited Act shall be and are hereby declared to be repealed.

VI. And be it enacted by the authority aforesaid, That from and after the said twenty-fourth day of June one thousand seven hundred and seventy-three if any person or persons shall upon a Sunday or on Christmas-day in the day-time knowingly and wilfully take kill or destroy any hare pheasant partridge heath-game or moor-game, or shall upon a Sunday or on Christmas-day use any gun dog net or engine for taking killing or destroying any hare pheasant partridge moor-game or heath-game; every such person being convicted thereof in the manner and form prescribed by this Act, shall be subject to the like forfeitures and penalties as are herein-before enacted to be inflicted for other offences against this Act.

VII. And be it further enacted, That in case any person shall commit an offence against this Act, whereby a penalty or punishment is incurred, and dwells in another county than in that in which the offence was committed, the justice or justices before whom such information or indictment was had or made may direct his or their warrant of apprehension and of distress and sale to any constable within such county riding or place where the offence was committed, to be by him carried to the justice near residing to the place where the offender dwells in such other county riding or place, to be signed by him on the back of the said warrant upon proof on oath of the hand-writing of the justice who first granted the warrant; which indorsement shall be sufficient authority for the constable of such parish or township where he dwells, or where his goods and chattels or distress are to be had and found, or for such constable who shall bring the said warrant to be indorsed to apprehend and convey such offender before the justice who first granted the warrant, or any other justice or justices of that county where the offence was committed, or for such constable to levy such penalty by distress and sale in the same manner and with the same powers as might have been done if the person had lived in the county riding or place where the offence was committed; and also in case where no sufficient distress can be had or found, to convey the offender before the justice who first granted the

(2.) The Recognisance must follow the Statute. A Recognisance to try the Appeal and pay the Penalty, with Costs, on affirmance, is bad: *Rex v. Bellamy*, 3 Anstr. 898.

warrant of distress or any other justice or justices of that county where the offence was committed to be dealt with according to law; and the justice of such other county who endorsed the warrant of distress or apprehension shall direct such constable or other person taking and making such distress and sale to deliver over any sums of money for penalties arising from such distress and sale to the justice of the county who first granted the warrant, to be by him distributed according to the meaning of this Act; and in case such constable or other person shall neglect or refuse to pay such sums of money, or deliver over all proceedings had upon such distress and sale or warrant of apprehension, such justice who first granted the warrant or the justice who indorsed it may commit such constable or other person so refusing or neglecting to account for the sums of money received or deliver over the proceedings so had thereupon, to the common gaol or house of correction for the space of six months or until the money shall be paid and the proceedings delivered over to the justice who first granted the warrant; or in case of his absence or death to any other justice of the same county, to be by him distributed according to the true intent and meaning of this Act: and that no action of trespass false imprisonment information or indictment or other action or appeal shall be brought sued commenced or prosecuted by any person or persons whatsoever against the justice of such other county who indorsed such warrant for or by reason of his indorsing the same.

No. XLIII.
13 Geo. III.
c. 80.

VIII. Provided always and be it further enacted, That no order made concerning any of the matters aforesaid, or any other proceedings to be had touching the conviction or convictions of any offender or offenders against this Act, shall be quashed for want of form or be removed by writ of *certiorari* or any other writ or process whatsoever into any of his Majesty's courts of record at *Westminster*.

Proceedings not to be quashed, nor removable by *Certiorari*.

IX. Provided also, That no person shall be proceeded against for any of the offences against this Act as aforesaid, unless information shall be made thereof upon oath before some justice of the peace for the county riding or place wherein such offence shall be committed within one calendar month after such offence shall be committed.

Information made on Oath.

[No. XLIV.] 16 George III. c. 30. A. D. 1776.—An Act more effectually to prevent the stealing of Deer, and to repeal several former Statutes made for the like Purpose.*

‘ WHEREAS the statutes now in force for the discovery and punishment of deer-stealers are numerous, and many of them ineffectual: And whereas the good purposes thereby intended might be better effected if such of the said statutes as are found to be defective were repealed, and such good provisions as are therein contained together with such further provisions as may be expedient were reduced into one Act; Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That if any person or persons shall course or hunt or shall take in any slip noose toyle or snare, or shall kill wound or destroy or shall shoot at or otherwise attempt to kill wound or destroy, or shall carry away any red or fallow deer in any forest chase purlieu or ancient walk, whether inclosed or not, or in any inclosed park paddock wood or other inclosed ground where deer are have been or shall be usually

16 George III.
c. 30.

Altered and in part repealed by 43 Geo. 3. c. 107.

Penalty on any who shall hunt, &c. any Fallow deer, in any Forest, &c.

* At the Summer Assize for Hertford, 1783, one Davies was indicted and tried “for hunting and killing a Fallow Deer, in an inclosed Park,” on 9 Geo. I. c. 22. Though the Prisoner was convicted, yet a question was reserved for the

opinion of the twelve Judges, whether that Act was not virtually repealed by 16 Geo. III. c. 30. The Judges decided that it was; in consequence of which the Defendant, at the ensuing Assizes, was discharged. 2 East's Pl. C. § 609.

No. XLIV.
16 Geo. III.
c. 30.

kept without the consent of the owner, or without being otherwise duly authorised, or shall be aiding abetting or assisting therein or thereunto, every person so offending by coursing hunting shooting at or otherwise attempting to kill wound or destroy or by aiding therein or thereunto shall forfeit for every such offence the sum of twenty pounds; and every person so offending by killing wounding or destroying, or by taking in any slip noose toyle or snare, or by carrying away or by aiding therein respectively, shall for every deer so wounded killed destroyed taken or carried away forfeit and pay the sum of thirty pounds; and if the offender in any of the cases aforesaid shall be a keeper of or person in any manner entrusted with the custody or care of deer in the forest chase purlieu ancient walk or inclosed park paddock or wood or other inclosed place where the offence shall be committed, every such offender shall forfeit and pay double the penalty hereinbefore appointed to be paid by other offenders; and if any person or persons after having been convicted of any of the aforesaid offences shall offend a second time against this Act by committing any of the aforesaid offences, such second offence whether it be the same as the first offence or be any other of the aforesaid offences shall be deemed and adjudged to be felony, and the person guilty thereof being lawfully convicted upon indictment shall be transported to one of his Majesty's plantations in America for the space of seven years.

Persons convicted under former Acts, still liable to Penalties, &c.

II. And be it further enacted, That every person who hath been or before the commencement of this Act shall be convicted under any statute now in force, for unlawfully hunting coursing killing taking or carrying away any deer out of any forest chase purlieu ancient walk park paddock wood or inclosed ground, shall be subject and liable to the several pains and penalties by such statute provided, in like manner as if this Act had not been made; and in case any such offender shall after the commencement of this Act be guilty and convicted of any of the aforesaid offences against this Act (the legal proof of such first or former conviction having been first made), every such person shall be deemed and adjudged to have committed a second offence against this Act in like manner as if this Act had been in force at the time of such first conviction and as if such conviction had been made under the provisions of this Act.

How Justices to proceed.

III. And to the intent that the prosecution of persons who shall offend a second time in manner aforesaid may be carried on with as little expence and trouble as is possible, Be it further enacted, That the justices before whom any person shall after the commencement of this Act be convicted for the first time of any of the offences before described shall transmit such conviction under his hand and seal to the quarter session which next after such conviction shall be holden for the county riding division city town or place wherein such first offence shall be committed, there to be filed by the clerk of the peace and to be kept amongst the records of the peace; and such conviction so filed or a true copy thereof certified and subscribed by such clerk of the peace shall be sufficient evidence to prove the conviction of such first offence as aforesaid.

Justices may grant Warrants to search.

IV. And be it further enacted, That it shall be lawful for any one justice of the peace upon complaint made to him on oath by any credible persons that there is reason to suspect any person or persons of having in his her or their custody or possession or in any dwelling-house outhouse yard garden or place any red or fallow-deer, which shall have been unlawfully killed, or the head skin or other part thereof, or any slip noose toyle snare or other engine for the unlawful taking of deer, by warrant under his hand and seal to cause such person and persons and such dwelling-house outhouse garden or place to be searched; and if any red or fallow-deer suspected to have been unlawfully killed, or the head skin or other part thereof, or any slip noose toyle snare or other engine suspected to be used for the unlawful taking or killing of deer shall be found in his her or their custody or possession, or in such dwelling-house outhouse garden or place, to cause the same and such person or persons so having possession or in whose dwelling-house outhouse garden or other place the same shall be found to be brought before any justice of

the peace having jurisdiction; and if such person or persons shall not produce before such justice the party of whom he she or they received the same, or satisfy such justice that he she or they came lawfully by such deer or the head skin or other part thereof, or had a lawful occasion for such slip noose toyle snare or other engine, or did not keep the same for any unlawful purpose, then every such person shall forfeit any sum not exceeding thirty pounds nor less than ten pounds, at the discretion of such justice.

V. And be it further enacted, That if any red or fallow deer suspected to have been unlawfully killed, or the head skin or other part of such deer, shall on a search under a warrant from any justice of the peace be found in the possession or custody of any person or persons or in any dwelling-house outhouse garden or other place, or shall be proved to have been in the possession house outhouse garden or place of any person or persons who may be justly suspected to have come dishonestly or unlawfully by the same as aforesaid; and such person or persons so in possession or the owner or occupier of such dwelling-house outhouse garden or other place shall not under the provisions aforesaid be liable to conviction; then and in every such case for the discovery of the party or parties who actually killed or stole such deer, it shall and may be lawful to and for any justice of the peace having jurisdiction as the evidence given and the circumstances of the case shall require, to summon before him at his discretion every person through whose hands such deer or the head skin or other part thereof so found shall appear to have passed; and if the person or persons from whom such deer or the head skin or other part thereof shall appear to have been first received, or who having had possession thereof shall not give proof to the satisfaction of such justice, that he she or they came lawfully by the same, such person or persons shall on every conviction forfeit and pay any sum not exceeding thirty pounds nor less than ten pounds, at the discretion of such justice.

VI. And be it further enacted, That in case it shall appear on the oath of a credible witness that any person or persons hath or have had in his her or their possession house out-house garden or place any red or fallow deer, or the skin head or other part thereof, and shall be reasonably suspected to have come dishonestly or unlawfully thereby, then and in every such case every such person or persons and all other persons through whose hands the same shall appear to have passed under the like suspicion shall and may be proceeded against in like manner and form, and on conviction shall be subject and liable to the same penalty or penalties as if such deer or the head skin or other part thereof had been found in the possession house out-house garden or place of such person or persons upon a search made under and by virtue of any such warrant as aforesaid.

VII. And be it further enacted, That in case any person or persons shall set lay or use any net wire slip noose toyle or other engine for the purpose of taking or killing deer within or upon any forest chase purlieu or ancient walk, or in the ring or outer fence or bank dividing the same from the adjoining lands, or in any inclosed park paddock wood or ground where deer are have been or shall be usually kept, such person or persons not being the owner of such forest chase purlieu ancient walk park paddock wood or ground or entrusted with the care of the deer within the same, and shall be convicted of any of such offences; every such offender shall forfeit and pay for the first offence any sum not exceeding ten pounds nor less than five pounds; and if afterwards convicted of any of the offences last mentioned, shall on every conviction after the first, forfeit and pay any sum not exceeding twenty pounds nor less than ten pounds; which said respective forfeitures shall be set at the discretion of the justice or justices before whom the offender or offenders shall be convicted of such first or further offence.

VIII. And be it further enacted, That if any person or persons shall at any time wilfully pull down or destroy or cause to be wilfully pulled down or destroyed the pale or pales or any part of the walls of any forest chase park ancient walk park paddock wood or other ground where any net

No. XLIV.

16 Geo. III.
c. 30.

In case Persons cannot be convicted, how Justices to proceed.

Suspected Persons, &c.

Penalty on setting Nets, &c.

Penalty on pulling down Pales, &c.

No. XLIV.
16 Geo. III.
c. 30.

Penalty on
carrying Fire-
arms, &c.

or fallow deer shall be then kept, without the consent of the owner or person chiefly entrusted with the custody thereof or being otherwise duly authorised, every person so offending shall be subject unto the forfeiture and penalty hereby inflicted for the first offence of killing of any deer.

IX. And be it further enacted, That if any person or persons carrying any gun or other fire-arms or any sword staff or other offensive weapon, shall come into any forest chace purlieu or ancient walk or into any inclosed park paddock wood or into any other ground where deer are usually kept, be the same inclosed or not inclosed, with an intent unlawfully to shoot at course or hunt or to take in any slip noose toyle snare or other engine, or to kill wound destroy or take away any red or fallow deer, it shall be lawful for every ranger or keeper or person entrusted with the care of such deer to seize and take from such person and persons in and upon such forest chace purlieu ancient walk park paddock wood or other ground, to and for the use of the owner thereof respectively, all such guns fire-arms slips nooses toyles snares or other engines and all dogs there brought for coursing deer, in the same and like manner as the gamekeepers of manors are empowered by law within their respective manors to seize and take dogs nets or other engines in the custody of persons not qualified by the laws to keep the same, and if any such person or persons shall there unlawfully beat or wound any ranger or keeper or his or their servants or assistants in the execution of his or their office or offices, or shall attempt to rescue any person in the lawful custody of any such ranger keeper servant or assistant, every person so offending shall be deemed and adjudged to be guilty of felony, and on being lawfully convicted on indictment shall be transported to one of his Majesty's plantations in America for the space of seven years.

How Justices
to proceed on
Information of
Offences.

X. And be it further enacted, That upon complaint or information upon oath of any one or more credible witness or witnesses before any one justice of the peace having jurisdiction of any offence committed against this Act, it shall and may be lawful to and for such justice (except in such cases only where the justice is specially directed previously to summon the party before him) to cause the person or persons who shall be charged by such complaint or information to be apprehended by warrant under the hand and seal of such justice, and to be brought before him at such time and place as shall be specified in and by such warrant, and thereupon such justice shall and may proceed to hear the matter of such complaint or information, and to adjudge and determine the same; and in such case where it is provided by this Act that the party complained of shall be summoned to appear, if the party so summoned shall not appear according to such summons, then upon due proof made of the service of such summons either personally or by leaving the same at his dwelling-house lodgings or other usual place of abode, it shall be lawful for the justice before whom the party was so summoned to appear to apprehend such party by warrant and to proceed as if no previous summons had been directed by this Act.

Penalties.

XI. And be it further enacted, That all the pecuniary penalties of this Act shall be recoverable before one or more justice or justices of the peace for the county or other division in which the offence shall be committed on proof of the offence by the oath of one or more credible witness or witnesses, or on confession of the offender; and one moiety of each penalty shall belong to the King's Majesty his heirs and successors, and be paid for his and their use into the hands of such person or persons as the said justice or justices shall direct, and the other moiety thereof shall belong and be paid to the informer or informers prosecuting for the same; and in case of non-payment thereof with the charges incident to the conviction immediately upon the conviction the said penalty or penalties and the charges incident shall be levied by distress and sale of the goods and chattels of every such offender by warrant under the hand and seal or hands and seals of the justice or justices before whom such conviction shall be made; and for want of sufficient

distress the offender or offenders, except in such cases only where it is otherwise provided by this Act, shall be sent by the said justice or justices to the common gaol of the county or place where the offence shall be committed for the space of one whole year, without bail or main-prize, unless the said penalty and charges incident shall be sooner paid.

XII. 'And to the end that persons convicted of any of the offences for which pecuniary penalties are inflicted by this Act may not by flight or removal after conviction evade imprisonment where such penalties shall not be paid on conviction and sufficient distress cannot be found for raising such penalties,' Be it further enacted, That it shall and may be lawful for the justice or justices of the peace before whom any offender shall be convicted of having incurred any pecuniary penalty of this Act, immediately after such conviction to order him or her into custody in case he or she shall not immediately pay the penalty due on such conviction during such time not exceeding three days, as such justice or justices shall think proper to allow for return of the warrant for raising the penalty by distress and sale as aforesaid.

XIII. Provided always, That if it shall appear to the satisfaction of such justice or justices, either by the confession of the party convicted or otherwise, that such party hath not goods or chattels sufficient whereon to levy the penalty or penalties so due, then and in such case the said justice or justices shall and may, without issuing any warrant of distress, proceed to commit the party so convicted as if a warrant of distress had been issued, and a *nulla bona* returned thereon.

XIV. Provided also, That if any person committed for any first offence against this Act shall before his commitment to prison procure security to be given by two sufficient sureties to the satisfaction of the justice or justices before whom he shall be so convicted, for payment of the penalty or penalties incurred with the charges incident, within six days inclusive of the day of conviction, then and in such case it shall be lawful for such justice or justices to accept such security, and upon non-payment thereof at the time to be stipulated for that purpose to cause the party convicted and his said sureties to be apprehended by warrant under his or their hand and seal or hands and seals, and them to commit to the common gaol of the county or place where the offence was committed for such space of time as the party convicted was subject and liable to have been imprisoned in case no such security had been given, unless the penalty or charges shall be sooner paid.

XV. And be it further enacted, That it shall and may be lawful for any keeper or under keeper of any forest chace purlieu ancient walk paddock park or other ground inclosed where deer are have been or shall be usually kept and their servants or assistants to seize and apprehend upon the spot any person or persons whom they shall discover in the actual fact of hunting coursing killing wounding shooting at taking destroying or carrying away any red or fallow deer from any such forest chace purlieu or ancient walk, whether inclosed or not, or in any inclosed park paddock wood or in any other inclosed ground or attempting so to do, or in setting or laying any net wire slip noose toyle snare or other engine therein for the taking killing or destroying of deer therein, and to carry such offender or offenders before some neighbouring justice of the peace having jurisdiction, to be dealt with according to law.

XVI. And be it further enacted, That in case any offender for his first offence against this Act shall for want of a sufficient distress be committed to gaol, and shall whilst in gaol obtain the consent in writing of the prosecutor and also of the owner ranger forester keeper or other person chiefly entrusted with the care of the deer in the forest chace purlieu ancient walk park paddock or place wherein the offence was committed, for his enlargement; that then and in every such case it shall and may be lawful to and for the justices of the peace having jurisdiction, at their general or quarter sessions to cause such offender to be brought before them, and thereupon by their order to direct the keeper of such gaol to set such offender at liberty; and the said keeper is hereby directed to obey such order accordingly; any thing herein-before contained to the contrary notwithstanding.

No. XLIV.

16 Geo. III.
c. 30.Proviso.
Regulations
where Security
is given.Keeper may
apprehend Per-
sons, &c.Offenders com-
mitted may be
enlarged.

No. XLIV.

16 Geo. III.
c. 30.

Discovery, &c.

How Justices
to proceed for
Conviction of
Offenders.

XVII. And for the better discovery of offenders against this Act be it further enacted, That any person who shall offend against this Act, and shall make discovery of any other person or persons who hath or have offended against the same so as he she or they be duly convicted of such offence according to this Act; then and in such case such discoverer shall be discharged of all the forfeitures and penalties of this Act by him her or them incurred previous to such discovery.

XVIII. 'And in order to prevent the quashing of convictions of offenders against this Act for want of form,' Be it further enacted, That the conviction and convictions of all and every offenders against this Act shall be certified by the justice or justices of the peace before whom the same shall be made to the next general quarter sessions of the peace to be filed amongst the records of the said sessions; and that such conviction shall be fairly written on parchment or paper in the following form of words as the case shall happen, or in any other form of words to the like effect; that is to say, (to wit),

Form of Con-
viction.

' **BE** it Remembered, that on the _____ day of _____
in the year _____ A. B. was,
' upon the complaint of C. D. convicted before
' of the Justices of the Peace for
' in pursuance of an Act passed in the
' year of the reign of his Majesty King George the _____
' Third, for [as the case shall be.]
' Given under _____ hand and seal, the day and year
' above written.'

Which said conviction shall be good and effectual in law to all intents and purposes, and shall not be quashed set aside or adjudged void or insufficient for want of any form or words whatsoever.

Certiorari not
allowed, unless,
&c.

XIX. And be it further enacted, That no *certiorari* shall be allowed to remove any conviction made or other proceedings of for or concerning any matter or thing in this Act, unless the party or parties convicted shall before the allowance of such *certiorari* become bound to the person or persons prosecuting in the sum of one hundred pounds with sufficient sureties, as the justice or justices of the peace before whom the offender was convicted, with condition to pay unto the said prosecutors within thirty days after such conviction confirmed on a *procedendo* granted their full costs and damages to be ascertained upon their oaths; and shall become also bound to the justice or justices of the peace before whom such conviction was made, with such sufficient sureties as such justice or justices shall approve of, in the penalty of sixty pounds for each offence, with condition to prosecute such writ of *certiorari* with effect, and to pay such justice or justices the forfeitures due by such conviction to be distributed as by this Act is directed, or to render the person or persons convicted to such justice or justices within thirty days next after such conviction shall be confirmed or a *procedendo* granted; and that in default thereof it shall be lawful to proceed to levy the penalty mentioned in such conviction in such manner as if no such *certiorari* had been awarded. (1.)

Confirmation of
Convictions.

XX. And be it further enacted, That after the confirmation of any conviction or convictions upon this Act by any of the superior courts at Westminster, and delivering the rule to the said justice or justices whereby such conviction or convictions hath or have been so confirmed, it shall and may be lawful for such justice or justices to proceed against the party or parties convicted in the same manner as if a *procedendo* had been granted.

Appeal.

XXI. Provided always and it is hereby declared and enacted, That if any person or persons shall think him her or themselves aggrieved by the judgment or determination of any justice or justices of the peace upon conviction of or for any of the offences in this Act, and shall not have sought his remedy by removing the matter by *certiorari* as afore-said, such

person or persons may appeal from the judgment of the said justice or justices to the general or quarter sessions of the peace to be held for the said county division or place where such person or persons was or were convicted next after the expiration of twenty days from the time of such conviction; but the person or persons so appealing shall and he she and they are hereby required and directed to give at least six days notice in writing to the prosecutor or prosecutors of such person or persons as shall so appeal of such his her or their intention of bringing and prosecuting such appeal and of the matter thereof, and shall enter into recognisance before some justice or justices of the peace for the county division or place wherein the conviction or judgment was made or given, with two sufficient sureties to be approved by the said justice or justices on conviction, to appear and try such appeal at the general or quarter sessions which shall be held in and for the county division or place wherein such conviction or judgment was made or given, next and immediately after the expiration of ten days from the time of such conviction, and to abide by the order or determination of such court, and for payment of such costs and charges as shall be awarded at the said court; and every such appeal and appeals shall by the court at the said general or quarter sessions to which such appeal or appeals is or are made be then examined and the facts and circumstances of the case fully inquired into and the matter then finally heard and determined; and in case such judgment determination or conviction as aforesaid shall be then and there affirmed, the party appealing shall pay unto the prosecutor or prosecutors his her or their full costs, to be ascertained by order of the said court of general or quarter sessions. (1.)

No. XLIV.

16 Geo. III.

c. 30.

XXII. Provided also, that in case any person or persons thinking him her or themselves aggrieved as aforesaid shall have paid the penalty inflicted by this Act for the offence of which he she or they shall have been convicted or shall be then imprisoned; every such person or persons having so paid or being so imprisoned may appeal to such judgment order determination or conviction as aforesaid, on entering into recognisance by himself herself or themselves only, and without any surety or sureties conditioned as before mentioned, the said penalty remaining in the hands of such justice or justices or such person or persons continuing in prison in the mean time and until the merits of the said appeal shall be heard and finally determined.

XXIII. Provided also, That no such conviction made or judgment given as aforesaid shall be set aside by the said court of general or quarter sessions for want of form or for want of stating or through the mistating of any facts circumstances or matter whatsoever, in case the facts alleged in the said conviction or on which the same shall be grounded shall be proved to the satisfaction of the said court; but such appeal and appeals shall be decided on the merits of the case only; nor shall such conviction or judgment be removed or removeable by *certiorari* or any other writ or process whatsoever into any of his Majesty's courts of record at *Westminster*; any law or statute to the contrary notwithstanding.

XXIV. Provided also and be it enacted, That if any person or persons shall be sued or prosecuted for any matter or thing which he or they shall do in pursuance of this Act, it shall and may be lawful to and for the person or persons so sued or prosecuted to plead the general issue and give the special matter in evidence; and if a verdict shall pass for the defendant or the plaintiff shall become nonsuit or suffer a discontinuance, or if upon a demurrer judgment shall be given against the plaintiff, the defendant shall have and recover his treble costs and have the like remedy for the same as any defendant hath in any other case by law.

Proceedings not
to be quashed,
&c.

General Issue.

Treble Costs.

(1.) If an Appeal be entered without notice, the Sessions have no authority to adjourn it to the next Sessions. Where the Sessions did so adjourn the Appeal, and at the next Sessions it

was dismissed for want of notice, the Court refused to grant a *Mandamus* to the Justices to re-hear it. *Rex v. Oxfordshire (Justices)* 1 M. & S. 446.

No. XLIV.

16 Geo. III.

c. 30.

Prosecution
within Twelve
Months.

Limitation of
Actions.

Commence-
ment of this
Act.

Parts of various
Statutes re-
pealed.

13 Rich. 2.

19 Hen. 7.

5 Eliz.

3 Jac. 1.

7 Jac. 1.

13 Car. 2.

5 Geo. 1.

3 & 4 W. & M.

10 Geo. 2.

XXV. And be it further enacted, That every prosecution for any offence against this Act shall be commenced within twelve calendar months but not after from the time of the offence committed; and that such persons as shall be prosecuted under this Act for any of the offences aforesaid shall not be liable to prosecution for the same offences under any other Act of Parliament or in any court of attachment swainmote eyre or any forest court.

XXVI. And be it further enacted, That all actions writs and prosecutions to be commenced against any person or persons for any thing to be done under or in pursuance of this Act shall be laid and tried in the county or place where the fact was committed, and shall be commenced within six calendar months after the fact committed and not otherwise.

XXVII. And be it further enacted, That this Act shall commence and begin to be in force on the tenth day of *June* in the year of our Lord one thousand seven hundred and seventy-six: And from and immediately after the commencement thereof, so much of the thirteenth chapter of the first part of the statutes made in the thirteenth year of the reign of *Richard* the Second, as inflicts a penalty on those who shall use heys nets or other engines for destroying deer; so much of the eleventh chapter of the statutes made in the nineteenth year of the reign of King *Henry* the Seventh, as relates to deer; and also so much of an Act made in the fifth year of the reign of Queen *Elizabeth*, intituled 'An Act for punishing of unlawful taking Fish Deer or Hawks,' as relates to deer; and also so much of an Act made in the third year of the reign of King *James* the First, intituled 'An Act against unlawful hunting and stealing of Deer and Conies,' as relates to deer; and also so much of an Act made in the seventh year of the reign of the said King *James* the First, intituled 'An Act for the Explanation of one Statute made in the second Session of this present Parliament,' intituled "An Act against unlawful hunting and stealing of Deer and Conies," as relates to deer, except such part thereof as repeals any part of the statutes of the third of *James* before-mentioned; and an Act made in the thirteenth year of the reign of King *Charles* the Second, intituled 'An Act to prevent the unlawful coursing hunting or killing of Deer,' as also an Act made in the third and fourth years of the reign of their late Majesties King *William* and Queen *Mary*, intituled 'An Act for the more effectual Discovery and Punishment of Deer Stealers,' and also an Act made in the fifth year of the reign of his late Majesty King *George* the First, intituled 'An Act for making more effectual an Act of the third and fourth years of the reign of King *William* and Queen *Mary*, intituled "An Act for the more effectual Discovery and Punishment of Deer Stealers;" and also so much of an Act made in the tenth year of the reign of his late Majesty King *George* the Second, intituled 'An Act for continuing an Act for the more effectual punishing wicked and evil-disposed persons going armed in disguise and doing injuries and violences to the persons and properties of his Majesty's subjects and for the more speedy bringing the offenders to justice, and for the continuing two clauses to prevent the cutting or breaking down the bank of any river or sea bank, and to prevent the malicious cutting of hop binds, contained in an Act passed in the sixth year of his present Majesty's reign, and for the more effectual punishment of persons removing any materials used for securing marsh or sea-walls or banks and of persons maliciously setting on fire any mine pit or delph of coal or cannel coal, and of persons unlawfully hunting or taking any red or fallow deer in forests or chaces, or beating or wounding keepers or other officers in forests chaces or parks; and for the more effectually securing the breed of wild fowl;' as relates to the second conviction of any person or persons for unlawfully coursing hunting taking in toyles killing wounding or taking away any red or fallow deer in any open or uninclosed forest or chase or relates to beating or wounding keepers or other officers in forests chaces or parks, shall be and the same are hereby respectively repealed.

XXVIII. Provided always and be it further enacted, That nothing contained in this Act shall extend to that part of *Great Britain* called *Scotland*.

[No. XLV.] 39 Geo. III. c. 34. A. D. 1799.—An Act No. XLV.
for repealing two Acts, passed in the Thirty-sixth Year 39 Geo. III.
of the Reign of his present Majesty, which limit the c. 34.
Time for killing Partridges in *England* and *Scotland*;
and for amending so much of an Act, passed in the Se-
cond Year of the Reign of his present Majesty, as relates
to such Limitation within that Part of *Great Britain*
called *England*, by making other provisions for that
Purpose.

‘ WHEREAS by an Act passed in the second year of the reign of his 39 George III.
present Majesty, intituled “ An Act for the better preservation of the c. 34.
Game in that Part of *Great Britain* called *England*,” it was amongst
other things enacted, That no person or persons after the first day of
June one thousand seven hundred and sixty-two should upon any pre-
tence whatsoever take kill destroy carry sell buy or have in his her
or their possession or use any partridge between the twelfth day of
February and the first day of September in any year, under the penalty
therein mentioned: And whereas by another Act passed in the thirty- 36 Geo. 3. c. 39.
sixth year of the reign of his present Majesty for amending the said
last-mentioned Act, the said restriction was repealed; and it was
enacted, That from and after the passing of the said Act no person or
persons should on any pretence whatsoever take kill destroy carry sell
buy or have in his her or their possession or use any partridge between
the twelfth day of February and the fourteenth day of September in any
year, under the same penalty as by the said last-mentioned Act is im-
posed: And whereas by an Act passed in the thirteenth year of the 13 Geo. 3. c. 54.
reign of his present Majesty, intituled “ An Act for the more effectual
preservation of the Game in that part of *Great Britain* called *Scotland*,
and for repealing and amending several of the Laws now in being relative
thereto;” it was amongst other things enacted, That every person who
should wilfully take kill destroy carry sell buy or have in his or her
possession or use any partridge between the first day of February and
the first day of September in any year should be liable to the penalty
therein mentioned: And whereas by another Act passed in the thirty- and 36 Geo. 3.
sixth year of the reign of his present Majesty for amending the said c. 54. recited.
last-mentioned Act, the said restriction was repealed; and it was
enacted, That from and after the passing of the said Act every person
who should wilfully take kill destroy carry sell buy or have in his or
her possession or use within that part of *Great Britain* called *Scotland*
any partridge between the first day of February and the fourteenth day
of September in any year should be liable to the same penalties and
forfeitures as by the said last-mentioned Act are imposed: And whereas 36 Geo. 3. c. 39.
it is expedient that the said Acts passed in the thirty-sixth year of the 54. repealed.
reign of his present Majesty should be repealed, and that the said Act
of the second year of his present Majesty should be amended so far as
respects the time so therein limited within that part of *Great Britain*
called *England*, by making other provisions for that purpose; May it
therefore please your Majesty that it may be enacted, and be it enacted
by the King’s most excellent Majesty, by and with the advice and consent
of the Lords Spiritual and Temporal and Commons in this present Par-
liament assembled, and by the authority of the same, That from and
after the passing of this Act the said recited Acts passed in the thirty-
sixth year of the reign of his present Majesty shall be and the same are
hereby declared to be repealed.

II. And be it further enacted, That from and after the passing of this
Act so much of the said recited Act passed in the second year of the
reign of his present Majesty as relates to the taking killing destroying
using or having any partridge between the twelfth day of February and
Partridges between Feb. 12 and Sept. 1 repealed.

The Act
2 Geo. 3. c. 19.
so far as relates
to taking, &c.

No. XLV.

39 Geo. III.

c. 34.

Persons taking,
&c. any Par-
tridge between
Feb. 1 and
Sept. 1 liable
to Penalties of
2 Geo. 3. c. 19.

the first day of *September* in any year shall be and the same is hereby declared to be repealed.

III. And be it further enacted, That from and after the passing of this Act no person or persons shall on any pretence whatsoever take kill destroy carry sell buy or have in his her or their possession or use any partridge within the kingdom of *Great Britain* between the first day of *February* and the first day of *September* in any year; and if any person or persons shall transgress this Act in the case aforesaid every such person shall be liable to the same penalty as by the said Act of the second year of the reign of his present Majesty is laid and imposed on any person or persons transgressing the same; such penalty to be imposed inflicted recovered applied and disposed of in such and the same manner and under such and the same rules regulations and restrictions as in and by the said Act is provided and directed with respect to the penalty thereby imposed on persons transgressing the said Act.

[No. XLVI.] 39 & 40 George III. c. 50. A. D. 1800.—

An Act to extend the Provisions of an Act made in the Seventeenth Year of the Reign of King *George* the Second, intituled "An Act to amend and make more effectual the Laws relating to Rogues, Vagabonds, and other idle and disorderly Persons, and to Houses of Correction."

39 & 40
Geo. 3. c. 50.

' WHEREAS idle and disorderly persons frequently assemble and associate themselves to support and assist each other in the destruction of Game in the night, and are if interrupted guilty of great violence by shooting maiming and beating to the great terror of his Majesty's subjects and to the encouragement of idleness and immorality; and such practices are found by experience to lead to the commission of Crimes and Felonies; For the suppression thereof, may it therefore please your Majesty that it may be enacted, and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That if any persons to the number of two or more shall after the passing of this Act enter into or be found in any forest chase park wood plantation paddock field meadow or other open or inclosed ground in the night, that is to say between the hours of eight of the clock at night and six in the morning from the first day of *October* to the first day of *February*, or between the hours of ten at night and four in the morning from the first day of *February* to the first day of *October* in each and every year, having any gun net engine or other instrument for the purpose and with the intent to destroy take or kill or shall wilfully destroy take or kill any hare pheasant partridge heath fowl commonly called black game, or grouse commonly called red game, or any other game; or if any person or persons shall be found with any gun fire-arms bludgeon or with any other offensive weapon protecting aiding abetting or assisting any such persons as aforesaid, it shall and may be lawful to and for the ranger and rangers and to and for the owner and owners occupier and occupiers of any such forest chase park wood plantation paddock field meadow or other open or inclosed ground, and also for his her or their keeper and keepers servant and servants, and also for any other person or persons to seize and apprehend or to assist in seizing and apprehending such offender or offenders by virtue of this Act, and by the authority of the same to convey and deliver such offender or offenders into the custody of a peace-officer, who is hereby authorised and directed to convey such offender or offenders before some one of his Majesty's justices of the peace for the county or place where such offence shall be alleged to have been committed; or in case such offender or offenders shall not be so apprehended, then it shall and may be lawful for any such justice on information before him

Persons to the
Number of Two
or more found
in any Forest,
&c. at the
Times herein
specified, having
any Gun or
Engine with
Intent to kill or
take Game, or
Persons aiding
with offensive
Weapons, may
be apprehended,
and on Convic-
tion before a
Justice shall be
deemed Rogues
and Vagabonds
within the
Meaning of
17 Geo. 2.
c. 5. &c.

on the oath of any credible witness or witnesses to issue his warrant for the apprehension of such offender or offenders; and if upon the apprehension of any such offender or offenders it shall appear to such justice on the oath of any credible witness or witnesses that the person or persons so charged hath or have been guilty of any or either of the said offences, every such person shall be deemed and taken to be a rogue and a vagabond within the true intent and meaning of an Act made in the seventeenth year of the reign of King George the Second, intituled, 'An Act to amend and make more effectual the laws relating to Rogues and Vagabonds, and other idle and disorderly Persons, and to Houses of Correction,' and shall suffer such pains and punishments as are directed to be inflicted by any law or statute in force and effect on rogues and vagabonds; and in case any person or persons being so convicted shall again offend against any of the provisions of this Act, such person or persons shall be deemed and taken to be an incorrigible rogue, and shall suffer such pains and punishments as by any law or statute in force and effect are directed to be inflicted on incorrigible rogues.

No. XLVI.

39 & 40
Geo. III.
c. 50.

[No. XLVII.] 42 George III. c. 107.—An Act more effectually to prevent the stealing of Deer.

WHEREAS it is expedient to make some further provision for preventing the stealing of Deer and the punishment of Deer-stealers; Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That from and after the passing of this Act, if any person or persons shall wilfully course or hunt or take in any slip noose toil or snare, or kill wound or destroy or shoot at or otherwise attempt to kill wound or destroy, or shall carry away any red or fallow deer kept or being in the inclosed part of any forest chase purlieu or ancient walk, or any inclosed park paddock wood or other inclosed ground wherein deer are have been or shall be usually kept, without the consent of the owner of such deer or without being otherwise duly authorised, or shall knowingly be aiding abetting or assisting therein or thereunto, every person so wilfully offending as aforesaid in any of the cases above-mentioned shall be deemed and taken to be guilty of felony, and being lawfully convicted thereof upon indictment shall be adjudged to be transported for the term of seven years.

42 Geo. III.
c. 107.

Persons who shall illegally hunt, snare, or shoot, &c. Deer in any Inclosure, and their Abettors, guilty of Felony, punishable by seven Years' Transportation.

II. And be it further enacted, That from and after the passing of this Act, if any person shall wilfully course or hunt, or take in any slip noose toil or snare, or kill wound or destroy or shoot at or otherwise attempt to kill wound or destroy, or shall carry away any red or fallow deer kept or being in the uninclosed part of any forest chase purlieu or ancient walk, without the consent of the owner of such deer or without being otherwise duly authorised, or shall knowingly be aiding abetting or assisting therein or thereunto, every person so offending shall for every such act of wilful coursing or hunting, and for every such attempt to kill wound or destroy, and for every deer so taken or killed wounded or destroyed or shot at or carried away as aforesaid, in or from any uninclosed part of any forest chase purlieu or ancient walk, forfeit and pay the sum of fifty pounds; and if the offender in any of the cases aforesaid shall be a keeper of or person in any manner entrusted with the care or custody of deer in the forest chase purlieu or ancient walk wherein the offence shall be committed, he shall for every such offence forfeit and pay double the penalty herein-before enacted to be paid by other offenders.

Penalty on Persons committing such Offences in uninclosed Ground, 50l.

Keepers of Deer, &c. offending, shall forfeit double.

III. And be it further enacted, That all powers provisions rules regulations methods forms restrictions and all other matters and things enacted prescribed appointed or contained in and by an Act of the Parliament of Great Britain, made in the sixteenth year of the reign of his present Majesty, intituled, 'An Act more effectually to prevent the stealing of Deer; and to repeal several former statutes made for the

Provisions of 16 George 3. c. 30. extended to this Act.

No. XLVII.

43 Geo. III.

c. 107.

In default of
Payment of
Penalties, Of-
fenders may be
committed for
Six Months.

Persons con-
victed of a se-
cond Offence,
punishable by a
pecuniary Pen-
alty shall be
adjudged to be
Felon, &c.

Conviction for
first Offences
shall be trans-
mitted to Quar-
ter Sessions,
and filed for
Proof.

So much of
16 Geo. 3.
c. 30. (see § 1.)
as inflicts Pe-
nalties for hunt-
ing or shooting
Deer, &c. re-
pealed.

‘like purpose,’ for or concerning the seizing or apprehending and the conviction of persons offending against the said Act, and for or concerning the recovery application and disposal of the penalties and forfeitures therein mentioned, and for or concerning the time and manner of appealing from convictions and of bringing actions or prosecutions against any person or persons for any thing done under or in pursuance of the said Act, and for or concerning the manner of pleading and other proceedings in such actions and the costs by the said Act given in certain cases, shall so far as the same respectively are applicable be in full force and effect, and be applied and made use of in seizing and apprehending and in convicting offenders against this Act, and in the recovery application and disposal of the penalties and forfeitures hereby imposed, and with respect to the time and manner of appealing from convictions and of bringing actions and prosecutions against any person for any thing done under or in pursuance of this Act, and with respect to the manner of pleading and other proceedings in such actions and the costs thereof, and for all other purposes to which such powers provisions rules regulations methods forms restrictions matters and things or any of them are applicable under this Act, as fully as if the same had been severally herein contained and set forth: Provided always, That in case of non-payment of any pecuniary penalty or forfeiture imposed by this Act with the charges incident to the conviction immediately on the conviction, and for want of sufficient distress of the goods and chattels of the offender or offenders, he and they shall be sent by the justice or justices before whom such conviction shall be made to the common gaol of the county riding or division city town or place where the offence was committed for six months, there to remain without bail or mainprize, unless the penalty and charges incident be sooner paid.

IV. And be it further enacted, That if any person or persons after having been duly convicted of any offence for which a pecuniary penalty or forfeiture is imposed either by this Act or by the said Act made in the sixteenth year of the reign of his present Majesty shall offend a second time by committing any offence against this Act, for which a pecuniary penalty or forfeiture is herein-before imposed, such second offence, whether it be the same offence as the first offence or be any other of the said offences, shall be deemed and taken to be a felon, and the person or persons guilty thereof being lawfully convicted upon indictment shall be adjudged to be transported for the term of seven years.

V. ‘And to the intent that the prosecution of persons who shall offend a second time may be carried on with as little expence and trouble as may be,’ Be it further enacted, That the justice before whom any person shall be convicted for the first time of any offence against this Act, for which pecuniary penalty or forfeiture is imposed, shall transmit such conviction under his hand and seal to the quarter session which next after such conviction shall be holden for the county riding or division city town or place wherein such first offence was committed, there to be filed by the clerk of the peace or other proper officer and kept amongst the records of the court; and such conviction so filed or a true copy thereof certified by such clerk of the peace or other proper officer, or proved to be a true copy, shall be sufficient evidence to prove the conviction for such first offence as aforesaid.

VI. And be it further enacted, That from and after the passing of this Act so much of the said Act made in the sixteenth year of the reign of his present Majesty as imposes or inflicts any penalty forfeiture or punishment on any person who shall hunt or course or take in any slip noose toil or snare, or kill wound or destroy or shoot at or otherwise attempt to kill wound or destroy, or carry away any fallow deer in any forest chase purlieu or ancient walk whether inclosed or not, or in any inclosed park paddock wood or other inclosed ground where deer were or had been or should be usually kept, without the consent of the owner or without being otherwise duly authorised, or who shall be aiding abetting or assisting therein, shall, with respect to the said offences committed after the passing of this Act, be and the same is hereby repealed.

* VII. Provided always and be it further enacted, That nothing herein contained shall extend to those parts of the united kingdom called *Scotland* and *Ireland*.

No. XLVII.
42 Geo. III.
c. 107.

[No. XLVIII.] 43 George III. c. 112.—An Act for the better Preservation of Heath Fowl, commonly called Black Game, in the New Forest, in the County of *Southampton*.

* Not to extend to Scotland or Ireland.

[No. XLIX.] 48 George III. c. 93. A. D. 1808.—An Act to repeal so much of an Act of the First Year of King *James* the First, as relates to the Penalties on Shooting at Hares; and also to repeal an Act of the Third Year of King *George* the First, relating to Gamekeepers.

‘ WHEREAS an Act was passed in the second year (commonly called the first year) of the reign of King *James* the First, intituled “ An Act for the better execution of the intent and meaning of former Statutes made against shooting in Guns, and for the preservation of the Game of Pheasants and Partridges, and against the destroying of Hares with hare-pipes, and tracing Hares in the snow;” whereby it was amongst other things enacted, That every person which should shoot at kill or destroy with any gun cross-bow stone-bow or long-bow any hare, should be subject to the penalties therein mentioned: And whereas it is expedient that the said provision should be repealed: And whereas it is also expedient that a certain other Act passed in the third year of his late Majesty King *George* the First, intituled “ An Act to explain and amend several Laws therein mentioned for the better Preservation of the Game should be repealed;” and that other Provisions should be made relating to the Appointment of Gamekeepers; Be it therefore enacted by the King’s most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That the said provision of the said recited Act of the second of *James* the First and the said recited Act of the third of *George* the First shall be and the same are hereby repealed.

48 George III.
c. 93.

1 or 2 Jac. 1. c.
27. § 2.

3 Geo. 1. c. 11.

Provision of
2 Jac. 1. c. 27.
so far as relates
to Hares; and
recited Act of
3 Geo. 1. c. 11.
repealed.

II. And be it further enacted, That it shall be lawful for any lord or lady of any manor to appoint and depute any person whatever, whether acting as a gamekeeper to any other person or not, or whether retained and paid for as the male servant of any other person or not, or whether a qualified person or not, to be a gamekeeper to any such manor, with authority to such person as gamekeeper to kill game within the same for his own use or for the use of any other person or persons whatever, to be specified in such appointment or deputation whether qualified or not; and no person so appointed gamekeeper as aforesaid and empowered to kill game for his own use, (1.) or for the use of any other person so specified as aforesaid, and not killing any game for the use of the lord or lady of the manor for which such deputation shall be given, shall be deemed or taken to be or entered or paid for as the gamekeeper or male servant of the lord or lady making such appointment or giving such deputation as aforesaid; any thing in any Act or Acts of Parliament to the contrary notwithstanding.

Lords of Manors may appoint Gamekeepers, whether qualified or not, &c. with Authority to kill Game for their own Use, &c.

III. And be it further enacted, That any person appointed gamekeeper under the authority of this Act to kill game for his own use or the use of any other person shall have the same rights privileges power and authority as if he had been legally qualified and appointed to act as

Gamekeepers so appointed shall have the same rights as if qualified.

(1) A Gamekeeper may be presumed to have killed for the use of the Lord, if nothing appear to the contrary: *Spurrier v. Vale*, 10 E. 413.

No. XLIX. gamekeeper to kill game for the use of the lord or lady of the manor
48 Geo. III. appointing such gamekeeper under any laws in force immediately before
c. 93. the passing of this Act.

[**No. L.**] **50 George III. c. 67. A. D. 1810.**—An Act for the better Preservation of Heath Fowl, commonly called Black Game, in the Counties of *Somerset* and *Devon*.

[**No. LI.**] **51 George III. c. 120. A. D. 1811.**—An Act to amend an Act of the Forty-seventh Year of his present Majesty, for more effectually preventing the stealing of Deer.

51 George III. c. 120. **WHEREAS** by an Act passed in the forty-second year of the reign of his present Majesty, intituled "An Act for more effectually preventing the stealing of Deer," no Provision is made for a mitigation of the pecuniary penalties thereby imposed for committing the several offences therein mentioned, from the want whereof considerable inconvenience has arisen; Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That on the conviction of any offender under the said Act for wilfully coursing or hunting or taking in any slip noose toil or snare, or killing wounding or destroying or shooting or otherwise attempting to kill wound or destroy, or carrying away any red or fallow deer kept or being in the *uninclosed* part of any forest chase purlieu or ancient walk, without the consent of the owner of such deer or without being otherwise duly authorised, or for knowingly being aiding abetting or assisting therein or thereunto, it shall and may be lawful for the magistrate or magistrates, by and before whom such offender or offenders shall be convicted, to *mitigate the penalty* of fifty pounds thereby imposed for the *first* offence to any sum at their discretion *not less than twenty pounds*, to be levied in the manner directed by the said recited Act: Provided always, that every other part and provision in the said recited Act shall be and remain in full force and effect as if this Act had not been made or passed.

On Conviction of Offenders under the recited Act, any Magistrate may mitigate the Penalty of 50*l.* to 20*l.*

[**No. LII.**] **56 George III. c. 130.**—An Act to repeal an Act, made in the Thirty-ninth and Fortieth Years of his present Majesty's Reign, intituled *An Act to extend the Provisions of an Act, made in the Seventeenth Year of the Reign of King George the Second, intituled 'An Act to amend and make more effectual the Laws relating to Rogues, Vagabonds, and other idle and disorderly Persons; and to Houses of Correction;'* and to make other Provisions in lieu thereof.—[1st July 1816.]

56 George III. c. 130. **WHEREAS** the laws now in force have been found insufficient to prevent idle and disorderly persons from going out armed in the night-time for the destruction of Game: And whereas such practices are found by experience to lead to the commission of felonies and murders: For the more effectual suppression thereof, may it therefore please your Majesty that it may be enacted; and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That the Act made in the thirty-ninth and fortieth years of his present Majesty, intituled *An Act to extend the Provi-*

39 & 40 G. 3. c. 50. repealed.

sions of an Act made in the Seventeenth Year of King George the Second, intituled 'An Act to amend and make more effectual the Laws relating to Rogues, Vagabonds, and other idle and disorderly Persons; and to Houses of Correction,' be repealed.

II. And be it further enacted, That if any person or persons shall after the passing of this Act unlawfully enter into or be found in any forest chase park wood plantation close or other open and inclosed ground in the night-time, that is to say between the hours of eight of the clock at night and seven in the morning from the first day of *October* to the first day of *March*, or between the hours of ten at night and four in the morning from the first day of *March* to the first day of *October* in each and every year, having any gun net engine or other instrument for the purpose and with the intent to destroy take or kill or shall wilfully destroy take or kill any hare rabbit pheasant partridge heath fowl commonly called black game, or grouse commonly called red game, or any other game; or if any person or persons shall be found with any gun fire arms bludgeon or with any other offensive weapon protecting aiding abetting or assisting any such person or persons as aforesaid, every person so offending being thereof lawfully convicted shall be adjudged guilty of a misdemeanor and shall be sentenced to transportation for any term not exceeding seven years, or shall receive such other punishment as may by law be inflicted on persons guilty of misdemeanors, and as the court before which such offenders may be tried and convicted shall adjudge; and if any such offender or offenders shall return into *Great Britain* before the expiration of the term for which he or they shall be so transported, contrary to the intent and meaning hereof, he or they so returning and being thereof duly convicted shall be adjudged guilty of felony, and shall be sentenced to transportation for the term or terms of his or their natural life or lives.

III. And for the more easy and speedy bringing the offenders against this Act to justice, Be it further enacted, That it shall and may be lawful to and for the ranger and rangers, and to and for the owner and owners occupier and occupiers of any such forest chase park wood plantation close or other open or inclosed ground, and also for his her or their keeper and keepers servant and servants, and also for any other person or persons to seize and apprehend or to assist in seizing and apprehending such offender or offenders by virtue of this Act, and by the authority of the same to convey and deliver such offender or offenders into the custody of a peace officer, who is hereby authorised and directed to convey such offender or offenders before some one of his Majesty's justices of the peace for the county or place where such offence shall be alleged to have been committed; or in case such offender or offenders shall not be so apprehended, then it shall and may be lawful for any such justice on information before him on the oath of any credible witness or witnesses to issue his warrant for the apprehension of such offender or offenders; and if upon the apprehension of any such offender or offenders it shall appear to such justice on the oath of any credible witness or witnesses that the person or persons so charged hath or have been guilty of any or either of the said offences, it shall and may be lawful for such justice to admit such person or persons so charged to bail, and in default of bail to commit such person or persons to the county gaol until the next general quarter sessions of the peace, or the next general commission of gaol delivery to be holden for the same county or place, there to be tried and dealt with as by this Act is directed.

No. LII.
56 Geo. III.
c. 130

Persons going armed or disguised in the Night-time, with apparent Intent to kill or destroy Game, may, on Conviction, be transported, &c.

Such Persons may be apprehended and conveyed before a Justice, who in Default of Bail may commit them.

[No. LIII.] 57 Geo. III. c. 90.—An Act for the Prevention of Persons going armed by Night for the Destruction of Game; and for repealing an Act, made in the last Session of Parliament, relating to Rogues and Vagabonds.—[10th July 1817.]

WHEREAS idle and disorderly persons frequently go armed in the night-time for the purpose of protecting themselves and aiding and

57 Geo. III.
c. 90.

No. LIII.
57 Geo. III.
c. 90.

Persons found
at certain
Times within
any Forest, &c.
with Intent to
destroy, take
or kill Game,
deemed guilty
of Misdemean-
our.

Transportation
for Seven
Years.

Offenders re-
turning to be
transported for
Life.

How Offenders
are to be
brought to Jus-
tice.

Persons found
in any Forest,
&c. at Night
with any En-
gine, &c. for
destroying
Game may be
taken before
a Justice.

abetting and assisting each other in the illegal destruction of game or rabbits: And whereas such practices are found by experience to lead to the commission of felonies and murders: For the more effectual suppression thereof, be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That if any person or persons having entered into any forest chase park wood plantation close or other open or inclosed ground, with the intent illegally to destroy take or kill game or rabbits, or with the intent to aid abet and assist any person or persons illegally to destroy take or kill game or rabbits, shall be found at night, that is to say between the hours of six in the evening and seven in the morning from the first day of *October* to the first day of *February*, between seven in the evening and five in the morning from the first day of *February* to the first day of *April*, and between nine in the evening and four in the morning for the remainder of the year, armed with any gun cross-bow fire arms bludgeon or any other offensive weapon, every such person so offending being thereof lawfully convicted shall be adjudged guilty of a misdemeanour, and shall be sentenced to transportation for seven years, or shall receive such other punishment as may by law be inflicted on persons guilty of misdemeanour, and as the court before which such offenders may be tried and convicted shall adjudge; and if any such offender or offenders shall return into *Great Britain* before the expiration of the term for which he or they shall be so transported, contrary to the intent and meaning thereof, he or they so returning and being thereof duly convicted shall be adjudged guilty of felony, and shall be sentenced to transportation for the term or terms of his or their natural life or lives.

II. And for the more easy and speedy bringing the offenders against this Act to justice, Be it further enacted, That it shall and may be lawful to and for the ranger and rangers and to and for the owner and owners occupier and occupiers of any such forest chase park wood plantation close or other open or inclosed ground, and also for his her or their keeper and keepers servant and servants, and also for any other person or persons to seize and apprehend or to assist in seizing and apprehending such offender or offenders by virtue of this Act, and by the authority of the same to convey and deliver such offender or offenders into the custody of a peace officer, who is hereby authorised and directed to convey such offender or offenders before some one of his Majesty's Justices of the Peace for the county or place where such offence shall be alleged to have been committed; or in case such offender or offenders shall not be so apprehended, then it shall and may be lawful for any such justice on information before him on the oath of any credible witness or witnesses to issue his warrant for the apprehension of such offender or offenders; and if upon the apprehension of any such offender or offenders it shall appear to such justice on the oath of any credible witness or witnesses, that the person or persons so charged hath or have been guilty of the crime of being found armed at night as aforesaid, it shall and may be lawful for such justice to admit such person or persons so charged to bail, and in default of bail to commit such person or persons to the county gaol until the next general quarter sessions of the peace or the next general commission of gaol delivery to be holden for the same county or place, there to be tried and dealt with as by this Act is directed; and if in *Scotland*, until such person or persons so charged shall be dealt with as any person or persons charged with a transportable offence may be dealt with according to the law and practice of *Scotland*.

III. And be it further enacted, That if any person or persons shall after the passing of this Act unlawfully enter into or be found in any forest chase park wood plantation close or other open or inclosed ground at night according to the provisions of this Act with respect to what shall be deemed night for the purposes hereof, having any net engine or other instrument for the purpose and with the intent to destroy take or kill or shall wilfully destroy take or kill game, it shall and may be lawful to and for the ranger and rangers and to and for the owner and owners occupier

and occupiers of any such forest chase park wood plantation close or other open or inclosed ground and for his her or their keeper and keepers servant and servants, and also for any other person or persons to seize and apprehend or to assist in seizing and apprehending such offender or offenders by virtue of this Act, and by the authority of the same to convey and deliver such offender or offenders into the custody of a peace officer, who is hereby authorised and directed to convey such offender or offenders before some one of his Majesty's justices of the peace for the county or place where such offence shall be alleged to have been committed, to be dealt with according to law.

IV. And be it further enacted, That an Act made in the last Session of Parliament, intituled *An Act to repeal an Act made in the Thirty-ninth and Fortieth Years of his present Majesty's Reign, intituled 'An Act to extend the Provisions of an Act made in the Seventeenth Year of the Reign of King George the Second, intituled "An Act to amend and make more effectual the Laws relating to Rogues, Vagabonds, and other idle and disorderly Persons, and to Houses of Correction," and to make other Provisions in lieu thereof;* shall be and the same is hereby repealed.

No. LIII.
57 Geo. III.
c. 90.

56 Geo. 3.
c. 130. repealed.

V. And be it further enacted, That the said Act made in the thirty-ninth and fortieth years of his present Majesty, intituled *An Act to extend the Provisions of an Act made in the Seventeenth Year of the Reign of King George the Second, intituled 'An Act to amend and make more effectual the Laws relating to Rogues, Vagabonds, and other idle and disorderly Persons, and to Houses of Correction;* shall be and the same is hereby repealed.

39 & 40 Geo. 3.
c. 50. repealed.

[No. LIV.] 58 George III. c. 75.—An Act for the more effectual Prevention of Offences connected with the unlawful Destruction and Sale of Game.—[5th June 1818.]

WHEREAS the selling exposing or offering to sale any hare pheasant partridge moor heath game or grouse is by law prohibited: And whereas it is expedient for the more effectual prevention of offences connected with the unlawful destruction and sale of Game, to provide by law as herein-after is enacted: Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That if any person or persons whatsoever, whether qualified or not qualified to kill game, shall buy any hare pheasant partridge moor heath game or grouse, every such person or persons who shall so offend and thereof shall be convicted before any one or more justice or justices of the peace magistrate or magistrates acting for the county riding city town borough division or place where such offence shall be committed by the oath of one or more credible witness or witnesses, shall for every hare pheasant partridge moor heath game or grouse so bought as aforesaid forfeit and pay the sum of five pounds, one half to be paid to the informer, and the other to the poor of the parish where such offence shall be committed; the same to be levied by distress and sale of the offender's goods by warrant under the hand and seal of the justice or justices magistrate or magistrates before whom the offender shall be convicted, rendering the overplus of such distress and sale (if any) to the party or parties, after deducting the charges of making the same; provided that such conviction be made within six calendar months after such offence committed.

II. And for the better discovery of such person or persons as shall buy or sell any hare pheasant partridge moor heath game or grouse, Be it further enacted by the authority aforesaid, That from and after the time of the passing of this Act any person that shall buy sell or offer to sell, or have unlawfully in his possession any hare pheasant partridge moor heath game or grouse, and shall make discovery of any person that hath within six calendar months bought or sold any such game as aforesaid, so as any one shall be convicted of any such offence by virtue of this

58 Geo. III.
c. 75.

Penalty on any
Persons buying
Game.

For the better
Discovery of
Persons buying
or selling of
Game.

No. LIV.

58 Geo. III.

c. 75.

or any other statute now in force, such discoverer shall be discharged of and from all pains forfeitures and penalties to which he may be and shall have become liable before and at the time of the making such discovery, by reason of the buying or selling or offering to sell or having unlawfully in his possession any such game as aforesaid, any thing in any former statute contained to the contrary notwithstanding; and shall receive the same benefit and advantage as any other informer shall be entitled to by virtue of this Act for such discovery and information: Provided always, that nothing in this Act contained shall be held or construed to discharge such discoverer of or from any pains forfeitures or penalties, in respect whereof a prosecution shall be actually pending or a conviction or judgment shall have been had against him at the time of the making such discovery as aforesaid.

Penalties under this Act may be sued for to the sole Use of Prosecutor.

III. And be it further enacted, That whosoever any person shall for any offence to be committed against the provisions of this Act be liable or subject to any forfeiture or penalty upon conviction before any justice or justices magistrate or magistrates as aforesaid, it shall and may be lawful for any other person whatsoever either to proceed to recover the said forfeiture or penalty by information and conviction as aforesaid, or to sue for and recover the whole of such penalty for his own use by action of debt or on the case bill plaint or information in any of his Majesty's courts of record, wherein no essoign wager of law or more than one imparlance shall be allowed, and wherein the plaintiff if he recovers shall have his double costs; and that no part of the said penalty recovered in any such suit or action shall be paid or applied to or for the use of the poor of the parish wherein such offence shall be committed: Provided always, that no such action suit bill plaint or information shall be brought or exhibited but within the space of six calendar months next after the offence committed; and that in case of any second prosecution for one offence, the person doubly prosecuted may plead in his defence the former prosecution pending or the conviction or judgment thereupon had.

[No. LV.] 59 George III. c. 102.—An Act for further regulating the Appointment of Gamekeepers in *Wales*.
—[12th July 1819.]

59 Geo. III.
c. 102.

WHEREAS there are now several districts and lands within the principality of *Wales* which are not known to be comprehended within the boundaries of any manors lordships or royalties; and there are also several other districts and lands within the principality which formerly belonged to or formed part or parts of such manors lordships or royalties, but which have been alienated therefrom or enfranchised by the lord or lords for the time being of such manors lordships or royalties, and many of such districts and lands are very extensive: And whereas the owner or owners of such districts and lands cannot, nor can any other person or persons appoint any gamekeeper or other servant to kill game on such lands for the use of the owner or owners thereof, without subjecting such gamekeeper or other servant to the penalties imposed by divers Acts of Parliament made for the preservation of the game; which regulations and enactments have tended greatly to the encouragement of poachers and other idle and disorderly persons to destroy the game within such districts of the said principality: For remedy whereof it is expedient that it be enacted: May it therefore please your Majesty that it may be enacted, and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That from and after the first day of *August* next it shall and may be lawful to and for all and every persons and person being seised in fee or as of freehold or otherwise beneficially entitled in his her or their own right of and in any lands situate and being within the said principality of the full and clear annual rent of five hundred pounds, and

Persons possessing certain Property may appoint Gamekeepers.

not being within the bounds of any manor lordship or royalty, or being within the precinct or bounds of any manor lordship or royalty, shall have been or shall be enfranchised or alienated therefrom; or to appoint by any writing or writings under his her or their hand or hands a gamekeeper to preserve or to course hunt shoot at or kill game for the use of the person or persons who shall make such appointment, in over and upon such his her or their lands and in over and upon the lands of every other person or persons who shall by licence in writing under his her or their hand or hands authorize him her or them to appoint a gamekeeper or gamekeepers or other servant or servants to preserve course hunt shoot at or kill game in over and upon the lands of the person or persons not being within the bounds of any manor lordship or royalty so granting such licence.

II. And be it further enacted, That every such gamekeeper having such appointment as aforesaid, during the continuance of such appointment shall not be made subject or liable to any penalties imposed by any former statutes of this realm for having any game in his or their custody of possession, or for coursing hunting shooting at or killing game on or upon any lands mentioned in his or their appointment or appointments, and whereon the person or persons making such appointment or appointments has or have any power licence or authority to make or grant any appointment or appointments by virtue of this Act: Provided always, that nothing herein contained shall extend or give or be construed to extend or give any power or authority to any person or persons to make or grant any such appointment or appointments licence or licences to course hunt shoot at or kill game in over or upon his her or their lands situate or being within the precinct or boundary of any manor lordship or royalty, unless such lands shall have been enfranchised or alienated therefrom, without the licence or consent in writing of the proprietor or proprietors of such manor lordship or royalty, having the right to pursue and kill game in upon or over such lands first had and obtained; and where in any existing lease or demise or agreement for demising any lands the lessor or lessors landlord or landlords thereof hath or have not reserved the right or power of hunting shooting or sporting, when no such appointment or appointments licence or licences shall be valid so as to authorize any such gamekeeper or gamekeepers servant or servants to enter upon any such lands to preserve course hunt shoot at or kill game thereon, without the consent in writing of the person or persons in the actual possession of such lands first had and obtained.

III. And whereas the manors lordships and royalties within the said principality are in many instances extremely extensive and comprehend very large tracts of country: And whereas by an Act passed in the ninth year of the reign of Queen Anne, intituled *An Act for making the Act of the Fifth Year of her Majesty's Reign for the better Preservation of the Game perpetual, and for making the same more effectual*, it is among other things enacted, that only one gamekeeper shall be appointed to kill game within any one manor: And whereas such restriction hath on account of the extent of the said manors lordships and royalties been found extremely inconvenient, and tended greatly to the destruction of the game within the said principality; be it enacted by the authority aforesaid, That the lords and ladies of such manors lordships and royalties and the stewards of the Crown for such manors lordships and royalties as appertain to his Majesty within the said principality shall be and they are hereby authorized respectively to nominate and appoint gamekeepers for such districts and divisions of their respective manors lordships and royalties as they shall think fit; and that each and every gamekeeper so appointed shall have the like powers privileges and authorities within such district or division as any gamekeeper appointed for the whole of a manor hath or would have by virtue of any Act now in force: Provided always, that nothing herein contained shall be construed to authorize the appointment of more than one gamekeeper for the same district or division, and that all appointments under this Act shall be registered with the clerk of the peace in like manner, and be subject to all other regu-

No. LV.
59 Geo. III.
c. 102.

Gamekeepers
not subject to
Penalties under
former Acts.

Lords of exten-
sive Manors
may appoint
Gamekeepers
for Districts.

No. LVI.
7 & 8 Geo. IV.
c. 18.

Persons granting Appointments may annul the same, and grant others in lieu thereof.

This Act not to extend to Persons killing Game without Certificate.

lations which are enacted with respect to the appointment of gamekeepers of manors by any Act now in force.

IV. And be it further enacted, That it shall and may be lawful to and for all and every persons and person who shall or may grant or make any appointment or appointments licence or licences, by virtue of this Act, to revoke annul or render void all and every such consent appointments and appointment licences and licence, and to grant or make other consent or consents, appointments or licences in lieu thereof as often as to him her or them shall seem proper.

V. Provided always, That nothing herein contained shall extend or be construed to extend the protection of this Act to any person or persons killing game without a certificate taken out or purchased according to the provisions of the Act now in force respecting game certificates, or in any manner to affect the rights of his Majesty or his successors or of any other person or persons in to or over any manor lordship or royalty within the said principality.

[No. LVI.] 7 & 8 Geo. IV. c. 18.—An Act to prohibit the setting of Spring Guns Man Traps and other Engines calculated to destroy human Life, or inflict grievous bodily Harm.—[28th May 1827.]

WHEREAS it is expedient to prohibit the setting of spring guns and man traps and other engines calculated to destroy human life, or inflict grievous bodily harm; Be it therefore enacted and declared by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That from and after the passing of this Act, if any person shall set or place, or cause to be set or placed, any spring gun man trap or other engine calculated to destroy human life, or inflict grievous bodily harm, with the intent that the same or whereby the same may destroy or inflict grievous bodily harm upon a trespasser, or other person coming in contact therewith, the person so setting or placing, or causing to be so set or placed, such gun trap or engine as aforesaid, shall be guilty of a misdemeanor.

II. Provided always and be it further enacted, That nothing herein contained shall extend to make it illegal to set any gin or trap such as may have been or may be usually set with the intent of destroying vermin.

III. And be it further enacted and declared, That if any person shall knowingly and wilfully permit any such spring gun man trap or other engine as aforesaid, which may have been set fixed or left in any place then being in or afterwards coming into his or her possession or occupation, by some other person or persons, to continue so set or fixed, the person so permitting the same to continue shall be deemed to have set and fixed such gun trap or engine, with such intent as aforesaid.

IV. Provided always, and be it further enacted, That nothing in this Act shall be deemed or construed to make it a misdemeanor, within the meaning of this Act, to set or cause to be set, or to be continued set, from sunset to sunrise, any spring gun man trap or other engine which shall be set or caused or continued to be set in a dwelling-house for the protection thereof.

V. Provided always, and it is hereby further enacted and declared, That nothing in this Act contained shall in any manner affect or authorize any proceedings in any civil or criminal court touching any matter or thing done or committed previous to the passing of this Act.

VI. Provided always, and be it further enacted, That nothing in this Act contained shall extend or be construed to extend to that part of the United Kingdom called *Scotland*.

Persons setting or placing Spring Guns, Man Traps, &c. guilty of a Misdemeanor.

Proviso for Traps for destroying Vermin.

Persons permitting Guns, Traps, &c., set by others to continue, deemed to have set the same.

Proviso for Guns, Traps, &c., set for the Protection of Dwelling Houses.

Not to affect Proceedings already commenced.

Not to extend to Scotland.

[No. LVII.] 9 Geo. IV. c. 69.—An Act for the more effectual Prevention of Persons going armed by Night for the Destruction of Game.—[19th July 1828.]

No. LVII.
9 Geo. IV.
c. 69.



57 G. 3. c. 90.

WHEREAS an Act was passed in the fifty-seventh year of the reign of his late Majesty King George the Third, intituled *An Act for Prevention of Persons going armed by Night for the Destruction of Game; and for repealing an Act made in the last Session of Parliament, relating to Rogues and Vagabonds*: And whereas the practice of going out by night for the purpose of destroying game has nevertheless very much increased of late years, and has in very many instances led to the commission of murder, and of other grievous offences; and it is expedient to repeal the said recited Act, and to make more effectual provisions than now by law exist for repressing such practice: May it please your Majesty that it may be enacted; and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That the said recited Act shall be and the same is hereby repealed, except so far as the same repeals any other Acts; and if any person shall, after the passing of this Act, by night unlawfully take or destroy any game or rabbits in any land, whether open or inclosed, or shall by night unlawfully enter or be in any land, whether open or inclosed, with any gun, net, engine, or other instrument, for the purpose of taking or destroying game, such offender shall, upon conviction thereof before two justices of the peace, be committed for the first offence to the common gaol or house of correction for any period not exceeding three calendar months, there to be kept to hard labour, and at the expiration of such period shall find sureties by recognizance, or in *Scotland* by bond of caution, himself in ten pounds, and two sureties in five pounds each, or one surety in ten pounds, for his not so offending again for the space of one year next following; and in case of not finding such sureties, shall be further imprisoned and kept to hard labour for the space of six calendar months, unless such sureties are sooner found; and in case such person shall so offend a second time, and shall be thereof convicted before two justices of the peace, he shall be committed to the common gaol or house of correction for any period not exceeding six calendar months, there to be kept to hard labour, and at the expiration of such period shall find sureties by recognizance, or bond as aforesaid, himself in twenty pounds, and two sureties in ten pounds each, or one surety in twenty pounds, for his not so offending again for the space of two years next following; and in case of not finding such sureties, shall be further imprisoned and kept to hard labour for the space of one year, unless such sureties are sooner found; and in case such person shall so offend a third time, he shall be guilty of a misdemeanor, and being convicted thereof, shall be liable, at the discretion of the court, to be transported beyond seas for seven years, or to be imprisoned and kept to hard labour in the common gaol or house of correction for any term not exceeding two years; and in *Scotland*, if any person shall so offend a first, second or third time, he shall be liable to be punished in like manner as is hereby provided in each case.

II. And be it enacted, That where any person shall be found upon any land committing any such offence as is herein-before mentioned, it shall be lawful for the owner or occupier of such land, or for any person having a right or reputed right of free warren or free chase thereon, or for the lord of the manor or reputed manor wherein such land may be situate, and also for any gamekeeper or servant of any of the persons herein mentioned, or any person assisting such gamekeeper or servant, to seize and apprehend such offender upon such land, or in case of pursuit being made, in any other place to which he may have escaped therefrom, and to deliver him, as soon as may be, into the custody of a peace officer, in order to his being conveyed before two justices of the peace; and in case assaulting or offering Violence deemed guilty of Misdemeanor, and liable to be transported for Seven Years, or imprisoned for Two Years.

Recited Act repealed.

Persons taking or destroying Game by Night to be committed, for the first Offence, for three Months, and kept to hard Labour, and to find Sureties;

Second Offence, six Months, and kept to hard Labour, and to find Sureties;

Third Offence, to be liable to Transportation.

Owners or Occupiers of Land, Lords of Manors, or their Servants, may apprehend Offenders.

Offenders as-

order therein, with or without costs to either party, as to the court shall seem meet; and in case of the dismissal of the appeal, or the affirmance of the conviction, shall order and adjudge the offender to be dealt with and punished according to the conviction, and to pay such costs as shall be awarded; and shall, if necessary, issue process for enforcing such judgment.

VII. And be it further enacted, That no such conviction, or adjudication made on appeal therefrom, shall be quashed for want of form, or be removed by *certiorari*, or otherwise, into any of his Majesty's superior Courts of Record, or in *Scotland* by advocacy or suspension into any superior court; and no warrant of commitment shall be held void by reason of any defect therein, provided it be therein alleged that the party has been convicted, and there be a good and valid conviction to sustain the same.

VIII. And be it enacted, That on every conviction under this Act for a first or second offence the convicting justices shall return the same to the next quarter sessions for the county, riding, division, city, or place wherein such offence shall have been committed; and the record of such conviction, or any copy thereof, shall be evidence in any prosecution to be instituted against the party thereby convicted for a second or third offence; and the clerk of the peace shall immediately on such return make or cause to be made a memorandum of such conviction in a register to be kept by him of the names and places of abode of the persons so convicted, and shall state whether such conviction be the first or second conviction of the offending party.

IX. And be it enacted, That if any persons, to the number of three or more together, shall by night unlawfully enter or be in any land, whether open or inclosed, for the purpose of taking or destroying game or rabbits, any of such persons being armed with any gun, crossbow, fire arms, bludgeon, or any other offensive weapon, each and every of such persons shall be guilty of a misdemeanor, and being convicted thereof before the justices of gaol delivery, or of the court of great sessions of the county or place in which the offence shall be committed, shall be liable, at the discretion of the court, to be transported beyond seas for any term not exceeding fourteen years nor less than seven years, or to be imprisoned and kept to hard labour for any term not exceeding three years; and in *Scotland* any persons so offending shall be liable to be punished in like manner.

X. And be it enacted, That in *Scotland* the sheriff of the county within which the offence shall have been committed shall have a cumulative jurisdiction with the justices of the peace in regard to the same; and the conviction in *Scotland* may be proved in the same manner as a conviction in any other case according to the law of *Scotland*.

XI. And be it enacted, That in all cases in *Scotland* of a third offence, or in other cases in *Scotland* where a sentence of transportation may, by the provisions of this Act, be pronounced, the offender shall be tried before the High Court or Circuit Court of Justiciary.

XII. Provided always, and be it enacted, That for the purposes of this Act the night shall be considered and is hereby declared to commence at the expiration of the first hour after sunset, and to conclude at the beginning of the last hour before sunrise.

XIII. And be it enacted, That for the purposes of this Act the word "game" shall be deemed to include hares, pheasants, partridges, grouse, heath or moor game, black game, and bustards

No. LVII.

9 Geo. IV.
c. 99.No Certiorari,
&c.Convictions to
be returned to
the Quarter
Sessions and re-
gistered, and
may be given in
Evidence.If Persons to
the Number of
Three, being
armed, enter
any Land for
the Purpose of
taking or de-
stroying Game,
&c., they shall
be deemed
guilty of a Mis-
demeanor.Jurisdiction of
Sheriffs in
Scotland.
Proving of Con-
victions.Third Offences,
&c., to be tried
in certain
Courts.What Time
shall be con-
sidered Night.What shall be
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Geo. LV

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PART VI.

CLASS XX.

*Gaming.**

* The Statutes which have Relation to Gaming, as an illegal Contract, are inserted in Part III. in conformity to the general Arrangement of this Work.

[No. I.] 33 Henry VIII. c. 9.—The Bill for the maintaining Artillery, and the debarring of unlawful Games. (1.)

2.

MOST humbly complaining, shew unto your Highness your daily orators the bowyers fletchers stringers and arrowhead-makers of this your realm, that where for the advancement and maintenance of archery the better to be maintained and had within the same, and for the avoiding of divers and many unlawful games and plays occupied and practised within this realm to the great hurt and lett of shooting and archery, divers good and lawful statutes have been devised enacted and made, amongst which one was made in a Parliament holden at *Westminster* in the third year of your most gracious reign, and the same Act made perpetual in the Parliament there holden in the sixth year of your said reign; (2) the which good and laudable Act notwithstanding divers and many subtil inventative and crafty persons intending to defraud the same estatute sithens the making thereof have found and daily find many and sundry new and crafty games and plays, as logetting in the fields slide-thrift otherwise called shove-groat as well within the City of *London* as elsewhere in many other and divers parts of this realm, keeping houses plays and alleys for the maintenance thereof; by reason whereof archery is sore decayed and daily is like to be more and more minished, and divers bowyers and fletchers for lack of work gone and inhabit themselves in *Scotland* and other places out of this realm, there working and teaching their science to the puissance of the same to the great comfort of estrangers and detriment of this realm.

33 Hen. VIII.
c. 9.6 Hen. 8. c. 2.
12 Co. 99.Several new-
devised Games
the Cause of the
Decay of Arch-
ery.

II. And where also your Grace's subjects bowyers fletchers and other artificers aforenamed from time to time resort repair and come out of all places of this your realm unto the City of *London* for lack of living and do inhabit nigh the same city or in the suburbs of the same city and in the streets and lanes of the same city, being no freeman of the same city nor bearing neither scot lot nor other charges within your said city as other citizens and freemen of the same city do and are bound to do and by their oaths are sworn to do, and which citizens and freemen of your said city of the mysteries and crafts before rehearsed which have been brought up as apprentices from their youth dwelling within the freedom of your said City of *London* are always in readiness to furnish your Grace's affairs when they shall be commanded; (2) by reason of which resort and abode of such foreigners and strangers of the mysteries and crafts before rehearsed in the suburbs streets and lanes of the same city other cities towns villages and places within this realm remain and be unfurnished of artificers and craftsmen before rehearsed to the great decay of the archery of this realm; (3) and forasmuch as it appeareth by the preamble of the said statute enacted the said third year, which was established and made perpetual in the foresaid sixth

(1.) The Proceedings for Penalties in this Act former."—Vi. Part IV. title *Penal Actions and*
are regulated by 31 Eliz. c. 5. "concerning In-
Informations,"

No. I.
33 H. VIII.
c. 9.

The Causes of
of the Decay
of Archery.

'year of your most gracious reign, that your Highness calling to your most noble and gracious remembrance that by the feat and exercise of the subjects of this your realm in shooting in long-bows there hath continually grown and been within the same great number and multitude of good archers, which hath not only defended this realm and the subjects thereof against the cruel malice and danger of their outward enemies in times heretofore past, but also with little number and puissance in regard have done many notable acts and discomfitures of war against the Infidels and other, and furthermore subdued and reduced divers and many regions and countries to their due obeisance, to the great honour fame and surety of this realm and subjects and to the terrible dread and fear of all strange nations any thing to attempt or do to the hurt or damage of them or any of them; (4) yet nevertheless archery and shooting in long-bows was little used, but daily did minish decay and abate more and more, for that much part of the commonalty and poor people of this realm whereby of old time the great number and substance of archers hath grown and multiplied were not of power and ability to buy them long-bows of yew to exercise shooting in the same and to sustain the continual charge thereof; (5) and also by means and occasions of custumable usage of tennis-play bowls cloysh and other unlawful games prohibited by many good and beneficial statutes by authority of Parliament in that behalf provided and made, great impoverishment hath ensued and many heinous murders robberies and felonies were committed and done, and also the divine service of God by such misdoers on holy and festival days not heard or solemnized to the high displeasure of Almighty God as by the aforesaid Preamble more plainly may appear.

[III. Men under the Age of Sixty Years shall have Bows and Arrows for shooting.—Men—Children between Seven Years and Seventeen.—Men about Seventeen Years of Age.]

[IV. Who shall shoot at Rovers.—Shooting in Yew Bows.—The Inhabitants of every Town shall cut Butts and shoot at them.]

[V. Bows of Elm, Ash, &c. Repealed by 8 Elis. c. 10. § 6.]

[VI. The several Prices of the several sorts of Bows. Repealed by 8 Elis. c. 10. § 6. 22 Ed. 4. c. 4. 3 H. VII. c. 13.]

[VII. Sale of seasonable Timber by one Fletcher to another.]

[VIII. Bowyers and Fletchers, &c. of London, upon Commandment, shall dwell elsewhere.]

[IX. Aliens shall not convey Bows or Arrows beyond the Sea.]

[X. Aliens shall not use shooting in Long-Bows.—Magistrates may hear and determine these Offences.]

The Penalty
for Maintenance of a
House for unlawful Games.

XI. Be it also enacted by the authority aforesaid, That no manner of person or persons, of what degree quality or condition soever he or they be, from the Feast of the Nativity of *St. John Baptist* now next coming, by himself factor deputy servant or other person shall for his or their gain lucre or living keep have hold occupy exercise or maintain any common house alley or place of bowling coytting cloysh-cayls half bowl tennis dicing table or carding or any other manner of game prohibited by any estatute heretofore made or any unlawful new game now invented or made or any other new unlawful game hereafter to be invented found had or made, (2) upon pain to forfeit and pay for every day keeping having or maintaining or suffering any such game to be had kept executed played or maintained within any such house garden alley or other place contrary to the form and effect of this estatute forty shillings.

The Penalty
for resorting to
a House of unlawful Games.

XII. And also every person using and haunting any of the said houses and plays and there playing to forfeit for every time so doing six shillings eight pence.

A Placard to
keep a House
of Gaming.
All such Placards made void
by 2 & 3 Ph. & M. c. 9.

XIII. And if any person hereafter sue for any placard to have common gaming in his house contrary to this estatute, that then it shall be contained in the same placard what game shall be used in the same house and what persons shall play thereat, and every placard granted to the contrary to be void; (2) and also that the party obtaining any such

placard before he put the same in execution shall be bound with sufficient sureties with him by recognisances in the Chancery, in a certain sum to be appointed by the discretion of the Lord Chancellor of *England* that he shall not use the said placard contrary to the form thereof.

XIV. Be it further enacted by the authority aforesaid, That it shall be lawful to all and every the justices of peace in every shire, mayors, sheriffs bailiffs and other head officers within every city town and borough within this realm, from time to time, as well within liberties as without as need and case shall require, to come enter and resort into all and every houses places and alleys where such games shall be suspected to be holden exercised used or occupied contrary to the form of this statute; (2) and as well the keepers of the same as also the persons there haunting resorting and playing, to take arrest and imprison and them so taken and arrested to keep in prison unto such time as the keepers and maintainers of the said plays and games have found sureties to the King's use to be bound by recognisance or otherwise no longer to use keep or occupy any such house play game alley or place; (3) and also that the persons there found be in like case bound by themselves or else with sureties by the discretions of the justices mayors sheriffs bailiffs or other head officers no more to play haunt or exercise from thenceforth in at or to any of the said places or at any of the said games.

XV. Also be it further enacted by the authority aforesaid, That the mayors sheriffs bailiffs constables and other head officers within every city borough and town within this realm where any such officers shall fortune to be, as well within the franchises as without, shall make due search weekly or at the farthest at all times hereafter once every month in all places where any such houses alleys plays or places shall be suspected to be had kept and maintained; (2) And if the said mayors sheriffs bailiffs constables and other head officers within their cities boroughs and towns, as well within franchises as without, do not make due search a the farthest once every month, if the case so require, according to the tenor of this Act, and do not execute the same in all things according to the purport and force of the same; that then every such mayor sheriff bailiff constable or other head officer to pay and forfeit for every month not making search nor executing the same, *xl. s.*

XVI. Be it also enacted by the authority aforesaid, That no manner of artificer or craftsman of any handicraft or occupation husbandman apprentice labourer servant at husbandry journeyman or servant of artificer mariners fishermen watermen or any serving-man shall from the Feast of the Nativity of *S^t. John Baptist* play at the tables tennis dice cards bowls clash coytig logating or any other unlawful game out of *Christmas* under the pain of *xx. s.* to be forfeit for every time; (2) and in *Christmas* to play at any of the said games in their masters' houses or in their masters' presence; (3) and also that no manner of persons shall at any time play at any bowl or bowls in open places out of his garden or orchard upon the pain for every time so offending to forfeit *vi. s. viii. d.*; (4) and that all justices of peace mayors bailiffs sheriffs and all other head officers and every of them finding or knowing any manner of person or persons using or exercising any unlawful games contrary to this present statute shall have full power and authority to commit every such offender to ward, there to remain without bail or mainprize until such time that they so offending be bounden by obligation to the King's use, in such sums of money as by the discretions of the said justices mayors bailiffs or other head officers shall be thought reasonable, that they or any of them shall not from henceforth use such unlawful games.

XVII. Be it further enacted by the authority aforesaid, That all other statutes made for the restraint of unlawful games or for the maintenance of artillery as touching the penalties or forfeitures of the same shall be from henceforth utterly void; (2) and that all informations plaints actions or suits that shall be taken or sued upon any part of this statute shall be commenced within the year after the offence committed and done or otherwise no advantage or suit thereof to be taken.

No. I.

33 H. VIII.
c. 9.

Magistrates
may repress un-
lawful Games,
and punish Of-
fenders.

Farther Provi-
sions relating
hereto.
2 Geo. 2. c. 28.
§ 9.

Searching of
Houses where
unlawful Games
be kept.

Persons prohib-
ited to play at
unlawful Games
out of Christ-
mas.
1 Lutw. 133.

Playing at
Bowls. Certain
Officers may
commit Offend-
ers to Prison.

All other Sta-
tutes made
against unlaw-
ful Games and
for the Mainte-
nance of Artil-
lery repealed.

No. I.
38 H. VIII.
c. 9.

Within what
Time any Suit
shall be prosecuted upon
this Statute,
and who shall
have the Forfeitures.

Proclamation
of this Statute.

Leases of
Houses where
unlawful Games
be used.

The Servant by
Licence may
play with his
Master.

In what Cases
Servants may
play at Dice,
Cards, Tables,
Bowls or Tennis.

Suits depending
at this time
upon any Statute
repealed.

Enforced by 2 Geo. 2. c. 28.

XVIII. And where any such forfeitures shall happen to be found within the precinct of any franchise leet or lawday, then the lord of the said franchise leet or lawday to have the one moiety thereof and the other moiety thereof to any of the King's subjects that will sue for the same in any of the King's courts by action information bill or otherwise, in which action or suit the defendant shall not be admitted to wage his law, nor any protection nor essoign shall be allowed; (2) and where such forfeiture shall be found out of the precinct of any franchise leet or lawday that the moiety of all such forfeitures shall be to the King our Sovereign Lord and the other moiety thereof to any the King's subjects that will sue for the same by bill plaint action information or otherwise in any of the King's courts, in which suit or action the defendant shall not be admitted to wage his law, nor any protection or essoign shall be allowed.

XIX. And to the intent that every person may have knowledge of this Act and avoid the danger and penalties of the same, Be it enacted by the authority aforesaid, That all mayors bailiffs sheriffs and all other head officers shall four times in the year, that is to say every quarter once, make open proclamation of this present Act in every market to be holden within their several jurisdictions and authorities.

XX. And also that the justices of gaol delivery assizes and justices of peace do cause the same to be proclaimed in their several circuits and sessions before them holden, and that this statute shall begin to take its effect concerning the penalties of the same from the said Feast of *St. John Baptist* now next coming and to continue and endure for ever.

XXI. Provided always and be it enacted by the authority aforesaid, That if any person or persons have taken by lease, whether it be by word writing or otherwise, any house alley or place wherein any such unlawful game now is and at the time of such lease made was used, that then every such lessee shall at the liberty of him or them to whom such lease is made their executors administrators or assigns from the said Feast of the Nativity of *St. John Baptist* be utterly void, except it be for breach of covenants or agreements or payment of rent due or to be due at the said Feast or any time before, so that then at the same Feast or within one month next after the same the said lessee give knowledge to such lessor or lessors their heirs and assigns that he will no longer occupy the same, and that then it shall be lawful to the inheritor lessor or owner thereof or to his heirs or assigns in the same house alley or place to re-enter.

XXII. Provided also and be it enacted by the authority aforesaid, That it shall be lawful for every master to licence his or their servants to play at cards dice or tables with their said master or with any other gentleman repairing to their said master openly in his or their house or in his or their presence according to his or their discretion; (2) and that it shall be lawful to every such servant for every time so being commanded or licensed by his said master as is aforesaid to play at cards dice or tables with his said master or other gentleman so to him repairing; any thing in this Act to the contrary notwithstanding.

XXIII. Provided also and be it enacted by the authority aforesaid, That it shall be lawful to every nobleman and other having manors lands tenements or other yearly profits for term of life in his own right or in his wife's right to the yearly value of an hundred pounds or above to command appoint or licence by his or their discretion his or their servants or family of his or their house or houses for to play within the precinct of his or their houses gardens or orchards at cards dice tables bowls or tennis as well amongst themselves as other repairing to the same house or houses; (2) and that they so playing by commandment appointment or licence as is aforesaid shall not incur any danger or penalty contained in this Act for the same; this Act or any thing therein contained to the contrary thereof in any wise notwithstanding.

XXIV. Provided always and be it enacted by the authority aforesaid, That all informations actions and suits now depending in any of the King's courts for or concerning any penalty or forfeiture contained in any of the said statutes by this Act repealed, and no judgment therein yet

given, the same informations actions and suits shall be remain and stand as good and effectual in the law to all intents constructions and purposes as if this Act had never been had ne made; any thing in this Act contained to the contrary thereof in any wise notwithstanding.

No. I.

33 H. VIII.
c. 9.

[No. II.] 16 Charles II. c. 7.—An Act against deceitful, disorderly, and excessive Gaming.

[Inserted ante, Part III.]

[No. III.] 10 & 11 William III. c. 17.—An Act for suppressing of Lotteries.

‘ WHEREAS several evil-disposed persons for divers years last past have set up many mischievous and unlawful games called *Lotteries*, not only in the cities of *London* and *Westminster* and in the suburbs thereof and places adjoining, but in most of the eminent towns and places in *England* and in the dominion of *Wales*, and have thereby most unjustly and fraudulently got to themselves great sums of money from the children and servants of several gentlemen traders and merchants and from other unwary persons to the utter ruin and impoverishment of many families and to the reproach of the *English* laws and government, by colour of several patents or grants under the great seal of *England* for the said lotteries or some of them; which said grants or patents are against the common good trade welfare and peace of his Majesty’s kingdoms: For remedy whereof be it enacted adjudged and declared, and it is hereby enacted adjudged and declared by the King’s most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That all such lotteries and all other lotteries are common and public nuisances, and that all grants patents and licences for such lotteries or any other lotteries are void and against law.

10 & 11 W. III.
c. 17.

Lotteries declared public Nuisances, and all Grants thereof void.

II. And be it further enacted by the authority aforesaid, That from and after the nine-and-twentieth day of *December* which shall be in the year of our Lord God one thousand six hundred ninety-nine, no person or persons whatsoever shall publicly or privately exercise keep open shew or expose to be played at drawn at or thrown at or shall draw play or throw at any such lottery or any other lottery, either by dice lots cards balls or any other numbers or figures or any other way whatsoever; and that every person or persons that shall after the said nine-and-twentieth day of *December* exercise expose open or shew to be played thrown or drawn at any such lottery play or device or other lottery shall forfeit for every such offence the sum of five hundred pounds, to be recovered by information bill plaint or action at law in any of his Majesty’s courts at *Westminster*, wherein no essoign wager of law nor any more than one imparlance shall be allowed; one third part thereof to the use of his Majesty his heirs and successors, one other third part thereof to the use of the poor of the parish where such offence shall be committed, and the other third part thereof together with double costs to the party that shall inform and sue for the same; and the said parties so offending shall likewise be prosecuted as common rogues according to the statutes in that case made and provided.

From 29 Dec. 1699, no Person to keep open such Lottery, &c.

Penalty on Offender.

III. And be it further enacted, That every person or persons that after the said nine-and-twentieth day of *December* shall play throw or draw at any such lottery play or device or other lotteries shall forfeit for every such offence the sum of twenty pounds, to be recovered by information bill plaint or action at law in any of his Majesty’s courts at *Westminster*, wherein no essoign wager of law nor any more than one imparlance shall be allowed, one third part thereof to the use of his Majesty his heirs and successors, one other third part thereof to the use of the poor of the parish where such offence shall be committed, and the other third part thereof

Penalty on playing at such Lotteries.
12 Geo. II.
c. 28.

No. III.

10 & 11

Will. III.

c. 17.

Royal Oak
Lottery to con-
tinue for the Term granted by Patent only.

This Act not to
affect the Lot-
tery for Green-
wich Hospital.

together with double costs to the party that shall inform and sue for the same.

IV. Provided nevertheless, That nothing in this Act contained shall extend or be construed to extend to effect or to enforce the suppressing of a lottery commonly called *The Royal Oak Lottery*, for the remainder only of the term for which it now stands granted by letters patent under the great seal of *England*; any thing herein-before contained to the contrary notwithstanding.

notwithstanding.

V. Provided also, That nothing in this Act contained shall extend to affect restrain or prejudice the undertaking now in being, called *The charitable Adventure for the Benefit of Greenwich Hospital*, by the present undertakers thereof, with the approbation of the governors and commissioners appointed for the management of the said hospital for any time before the four-and-twentieth day of *June* one thousand seven hundred.

2.

[No. IV.] 9 Anne, c. 6.—An Act for reviving, continuing, and appropriating certain Duties upon several Commodities to be exported; and certain Duties upon Coals to be water-borne and carried Coastwise; and for granting further Duties upon Candles, for thirty-two Years; to raise Fifteen Hundred Thousand Pounds, by Way of a Lottery, for the Service of the Year One Thousand Seven Hundred and Eleven; and for suppressing such unlawful Lotteries, and such Insurance Offices, as are therein mentioned.

9 Anne, c. 6.
Act 10 Will. 3.
c. 17. concern-
ing Lotteries, to
be put in Execu-
tion.

'Amended and
enforced by
22 Geo. 2.
c. 48.'

Persons setting
up such Lot-
teries forfeit
100*l*.

Persons setting
up Insurances
on Marriages,
Births, &c. for-
feit 500*l*.

LVI. 'AND whereas, notwithstanding an Act made in the tenth year of the reign of the late King *William*, intituled *An Act for suppressing of Lotteries*, and the prohibitions and penalties therein, several persons of late have presumed contrary to the intent of the said Act to set up lotteries in imitation of the lottery directed to be drawn by virtue of an Act of the last session of Parliament, and other lotteries, which are prejudicial to the publick and tend greatly to defraud her Majesty's subjects; Be it further enacted by the authority aforesaid, That the said Act of the tenth year of the late King *William* shall be put in execution: And for the more effectual suppressing and preventing such unlawful lotteries the justices of the peace and all mayors bailiffs head officers constables and other her Majesty's civil officers within their respective jurisdictions are hereby empowered and required to use their utmost endeavours to prevent the drawing of any such unlawful lottery heretofore or hereafter to be set up by all lawful ways and means; and that every person who after the eighth day of *March* one thousand seven hundred and ten shall set up or shall by writing or printing publish the setting up any such unlawful lottery with intent to have such lottery drawn shall forfeit for every such offence one hundred pounds, to be recovered by information bill plaint or action at law in any of her Majesty's courts at *Westminster*, wherein no essoign wager of law nor any more than one imparlance shall be allowed; one third part thereof to the use of her Majesty her heirs and successors, one other third part thereof to the use of the poor of the parish where such offence shall be committed, and the other third part thereof together with full costs to the party who shall inform and sue for the same.

LVII. 'And whereas several ill-disposed persons with design to defraud her Majesty's subjects have of late presumed to erect and set up offices or places for making insurances on marriages births christnings or service, which practices are also prejudicial to the publick and tend to defraud her Majesty's subjects; Be it further enacted by the authority aforesaid, That every person or persons who after the eighth day of

March one thousand seven hundred and ten shall erect or set up any office or place for making assurances on marriages births christnings and service or any of them shall forfeit for every such offence the sum of five hundred pounds, to be recovered and distributed in such manner as the penalty of two hundred pounds last mentioned is to be recovered and distributed; and every person or persons who after the said eighth day of *March* in any office or place before the said eighth day of *March* one thousand seven hundred and ten erected or set up for making insurances on marriages births christnings and service or on any of them shall make or suffer to be made therein any new insurances or contracts for new insurances on marriages births christnings and service or any of them shall forfeit for every such offence the sum of one hundred pounds to be recovered and distributed in like manner.

No. IV.
9 Anne,
c. 6.

Contracting for
new Insurances
in Offices al-
ready set up,
forfeit 100*l*.

[No. V.] 9 Anne, c. 14.—An Act for the better preventing of excessive and deceitful Gaming.

[Inserted ante, Part III.]

[No. VI.] 10 Ann, c. 26.—An Act for laying additional Duties on Hides and Skins, Vellum and Parchment, and new Duties on Starch, Coffee, Tea, Drugs, Gilt and Silver Wire, and Policies of Insurance to secure a yearly Fund for Satisfaction of Orders to the Contributors of a further Sum of One Million Eight Hundred Thousand Pounds towards her Majesty's Supply; and for the better securing the Duties on Candles; and for obviating Doubts concerning certain Payments in *Scotland*; and for suppressing unlawful Lotteries, and other Devices of the same Kind; and concerning Cake Sope; and for Relief of *Mary Ravenall*, in Relation to an Annuity of Eighteen Pounds *per Annum*; and concerning Prize Cocoa Nuts brought from *America*; and certain Tickets which were intended to be subscribed into the Stock of the *South Sea Company*; and for appropriating the Monies granted in this Session of Parliament.

3.

CIX. AND whereas notwithstanding the provision made for suppressing of unlawful lotteries, by an Act made in the tenth year of the reign of the late King *William*, intituled "An Act for Suppression of Lotteries;" and the further provision made for suppressing the same, and for the preventing the erecting or setting up any office or place for making insurances on marriages births christnings or service by an Act made in the last session of Parliament, intituled "An Act for reviving continuing and appropriating certain duties upon several commodities to be exported, and certain duties upon coals to be water-horne and carried coastwise; and for granting further duties upon candles for thirty-two years; to raise fifteen hundred thousand pounds by way of a lottery, for the service of the year one thousand seven hundred and eleven; and for suppressing such unlawful lotteries and such insurance offices as are therein mentioned;" many ill disposed persons with design to evade the said laws have of late presumed to erect and set up offices or places for making insurances on marriages births christnings or service and also other offices or places under the denominations of sales of gloves of fans of cards of numbers and of the Queen's picture for the improvement of small sums of money; and advertisements thereof are daily published in the common printed newspapers and otherwise; which practices are prejudicial to the public and to the trade of this kingdom and

10 Anne, c. 26.
10 & 11 Will. 3.
c. 17.
9 Anne, c. 6.
Clause for sup-
pressing unlaw-
ful Lotteries,
and other De-
vices of the
same Kind.

No. VI.

10 Ann,
c. 26.

'tend to defraud her Majesty's subjects.' Be it further enacted by the authority aforesaid, That the said Act of the tenth year of the late King William, and also the said Act of the said last session of Parliament shall be duly put in execution for the effectual preventing and suppressing all such unlawful lotteries and offices; and further, That every person or persons who after the twenty-fourth day of June in the year of our Lord one thousand seven hundred and twelve, shall erect set up or keep any office or place for making insurances on marriages births christnings or service or any of them or any other office or place under the denominations of sales of gloves of fans of cards of numbers of the Queen's picture, for the improvement of small sums of money or the like offices or places, under the pretence of improving small sums of money, shall forfeit for every such offence the sum of five hundred pounds to be recovered with costs of suit by action of debt bill plaint or information in any of her Majesty's courts aforesaid wherein no essoign protection wager of law nor any more than one imparlance shall be allowed; one third part thereof to the use of her Majesty her heirs and successors, one other third part thereof to the use of the poor of the parish of the place where the offence shall be committed, and the other third part thereof together with full costs of suit to the person or persons who shall inform or sue for the same: And every printer or other person who after the said twenty-fourth day of June one thousand seven hundred and twelve shall by writing or printing publish the setting up or keeping any such office or place under any the denominations aforesaid or like denominations for the improvement of small sums of money, shall for every such offence forfeit the sum of one hundred pounds to be recovered and distributed in such manner as the penalty last mentioned is to be recovered and distributed; and every person or persons who after the said twenty-fourth day of June one thousand seven hundred and twelve, in any office or place before the said twenty-fourth day of June one thousand seven hundred and twelve, erected or set up for making insurances on marriages births christnings or service or under any other the denominations aforesaid, or any like denominations for improvement of small sums, shall make or suffer to be made therein any new insurances or contracts for new insurances on marriages births christnings or service or receive any payments into any the offices or places aforesaid for the improvement of small sums of money, shall forfeit for every such offence the sum of one hundred pounds to be recovered and distributed in like manner.

22.

[No. VII.] 8 George I. c. 2.—An Act for continuing the Duties on Malt, Mum, Cyder and Perry, to raise Money by way of a Lottery, for the Service of the Year One Thousand Seven Hundred and Twenty-two; and for transferring the Deficiencies of a late Malt Act to the Land Tax for the said Year; and for giving Time for inserting the Money given with Apprentices in their Indentures; and touching lost Bills, Tickets, or Orders; and for exchanging the Tickets in the Exchequer for Certificates; and for suppressing Lotteries Denominated Sales, and other private Lotteries; and for enlarging the Time for the Accountant General of the Bank of England to return Duplicates of Annuities into the Exchequer.

8 George I.
c. 2.Clause for the
more effectual
suppressing unlawful

XXXVI. 'AND whereas notwithstanding the provision already made by several Acts of Parliament for suppressing and preventing of unlawful lotteries and offices and places under the denomination of sales, and taking or making buying or selling subscriptions

suppressing unlawful Lotteries, denominated Sales, &c. Amended and enforced 12 Geo. 2. c. 29.

for the sale of chances or part of chances to arise on tickets made out in pursuance of any Act of Parliament for a public lottery, many ill-disposed persons with a design to evade such laws have of late presumed and do daily presume to erect and set up offices or places under the denomination of sales of houses lands plate jewels ships goods and other things; and also have presumed to make print and publish or caused to be made printed or published proposals or schemes for advancing small sums of money by several persons amounting in the whole to large sums, to be divided among them by the chances of the prizes in some public lottery or lotteries established or allowed by Act of Parliament, and to deliver out tickets to the persons advancing such sums to entitle them to a share of the money so advanced according to such proposals; and advertisements thereof are daily published in the common printed newspapers and otherwise; which practices are highly prejudicial to the public and to the trade of this kingdom and tend to defraud his Majesty's subjects: Be it further enacted by the authority aforesaid, That all and every person or persons who after the twenty-first day of December in the year of our Lord one thousand seven hundred and twenty-one shall erect set up continue or keep or shall cause or procure to be erected set up continued or kept any office or place under the denomination of sales of houses lands advowsons presentations to livings plate jewels ships goods or other things for the improvement of small sums of money; or shall sell or expose to sale any houses lands advowsons presentations to livings plate jewels ships goods or other things by way of lottery or by lots tickets numbers or figures; or shall make print advertise or publish or cause to be made printed advertised or published proposals or schemes for advancing small sums of money by several persons amounting in the whole to large sums, to be divided among them by the chances of the prizes in some public lottery or lotteries established or allowed by Act of Parliament; or shall deliver out or cause or procure to be delivered out tickets to the persons advancing such sums to entitle them to a share of the money so advanced according to such proposals or schemes; or shall make print or publish or cause to be made printed or published any proposal or scheme of the like kind or nature under any denomination name or title whatsoever; and shall be thereof convicted upon the oath or oaths of one or more credible witness or witnesses by two or more justices of the peace of the county division or liberty where such offence shall be committed or the offender shall be found (which oath such justices of the peace are hereby empowered and required to administer) the person so convicted shall for every such offence, over and above any former penalties inflicted by any former Act or Acts of Parliament made against any private or unlawful lotteries, forfeit the sum of five hundred pounds, one third part thereof to his Majesty his heirs and successors, one other third part thereof to the informer, and the remaining third part thereof to the poor of the parish where such offence shall be committed; the same to be levied by distress and sale of the offender's goods by warrant under the hands and seals of such justices before whom such offender shall be convicted as aforesaid; and shall also for every such offence by such justices be committed to the county gaol there to remain without bail or main-prize for the space of one whole year, and from thence till the said sum of five hundred pounds so forfeited as aforesaid shall be fully paid and satisfied: Provided nevertheless that any person who shall think himself or herself aggrieved by the judgment or determination of two or more such justices in any the cases aforesaid, shall have liberty to appeal to the next quarter sessions to be held for the county city or place where such judgment or determination shall be made or given: and that the judgment to be given by the justices at the said next quarter sessions shall be final.

XXXVII. And be it further enacted by the authority aforesaid, That all and every person or persons who after the time aforesaid shall be adventurer or adventurers in or shall pay any money or other consideration double the Sum contributed, one Moiety to the Crown, the other to the Informer.

No. VII.

8 Geo. I.

c. 2.

Persons who, after 21 Dec. 1721, shall erect Offices for Sale, &c. by way of Lottery, &c. shall forfeit 500*l*. one third to the Crown, another to the Informer, and the other to the Poor, where, &c.

Persons aggrieved may appeal to the Quarter Sessions.

Persons contributing to Sales, &c. to forfeit double the Sum contributed, one Moiety to the Crown, the other to the Informer.

No. VII.

§ Geo. I.

c. 2.

or any ways contribute unto or upon the account of any such sales lotteries proposals or schemes aforesaid shall forfeit for every such offence double the sum paid or contributed, to be recovered with costs of suit by action of debt bill plaint or information in any of his Majesty's courts of record at *Westminster*, wherein no essoign protection wager of law nor any more than one imparlance shall be allowed; one moiety thereof to his Majesty his heirs and successors, the other moiety thereof to the person or persons who shall inform or sue for the same.

P.

[No. VIII.] 9 George I. c. 19.—An Act to continue the Duties for Encouragement of the Coinage of Monies; and for Relief of *William* late Lord *Widdrington*; and to prevent foreign Lotteries being carried on in this Kingdom; and for ascertaining the Duties on bound Books imported; and for issuing Certificates and Debentures for Arrears due to five Regiments, to be satisfied by Annuities therein mentioned; and for discharging the Duties of Rock-Salt lost on the Rivers *Weaver* and *Mercy*; and for limiting the Times of Continuance of Commissioners for forfeited Estates in *England* and *Scotland* respectively; and for appropriating the Supplies granted to his Majesty in this Sessions of Parliament; and to rectify Misnomers and Omissions of Commissioners for the Land-Tax in the Year One Thousand Seven Hundred and Twenty-three.

9 George I.
c. 19.

Clause to prevent foreign Lotteries being carried on in this Kingdom.

IV. 'AND whereas in order to elude the many good laws made for suppressing unlawful lotteries several evil-disposed persons have of late presumed to erect and carry on several lotteries upon pretence 'and colour of some grant or authority given by foreign princes or states;' For the better preventing of which illegal practices for the future, Be it declared and enacted by the authority aforesaid, That if any person or persons shall from and after the first day of *July* one thousand seven hundred and twenty-three, by virtue or colour of any grant or authority from any foreign prince state or government whatsoever, erect set up continue or keep or shall cause or procure to be erected set up continued or kept any lottery or undertaking in the nature of a lottery under any denomination whatsoever, or shall make print or publish or cause to be made printed or published any proposal or scheme for any such lottery or undertaking, or shall within this kingdom sell or dispose of any ticket or tickets in any foreign lottery and shall be convicted of any of the said offences upon the oath or oaths of one or more credible witness or witnesses by two or more justices of the peace of the county division or liberty where such offence shall be committed or the offender shall be found (which oath such justices of the peace are hereby empowered and required to administer) the person so convicted shall for every such offence (over and above any former penalties inflicted by any former Act or Acts of Parliament made against unlawful lotteries) forfeit the sum of two hundred pounds; one third part thereof to his Majesty his heirs and successors, one other third part thereof to the informer, and the remaining third part thereof to the poor of the parish where such offence shall be committed; the same to be levied by distress and sale of the offender's goods by warrant under the hands and seals of such justices before whom such offender shall be committed as aforesaid, and shall also for every such offence by such justices be committed to the county gaol, there to remain without bail or mainprize for the space of one whole year and from thence till the said sum of two hundred pounds so forfeited as aforesaid shall be fully paid and satisfied.

Penalty.

V. Provided nevertheless, That any person who shall think him or herself aggrieved by the judgment or determination of such justices in any the cases aforesaid, shall have liberty to appeal to the next quarter sessions to be held for the county city or place where such judgment or determination shall be made or given, and that the judgment to be given by the justices of the next quarter sessions shall be final.

No. VIII.

9 Geo. I.

c. 19.

Appeal to
Quarter Ses-
sions.

B.

[No. IX.] 2 George II. c. 28.—An Act to revive the Laws therein mentioned, relating to the Importation of Foreign Brandy, and other Waters and Spirits; for Importation of Cochineal; to continue several Acts for preventing Frauds in the Customs: for Encouragement of the Silk Manufactures of this Kingdom; for making Copper Ore of the *British* Plantations an enumerated Commodity; for making perpetual an Act therein mentioned for suppressing of Piracy; for enabling Persons prosecuted upon the *Capias*, in Relation to the running of Goods, to defend in *Forma Pauperis*; for more effectual debarring of unlawful Games; for licensing Retailers of Brandy, and other distilled Liquors, and for better Regulation of Licences for common Inns and Ale-houses.

IX. 'AND whereas a good and profitable statute was made in the three-and-thirtieth year of the reign of King Henry the Eighth (among other things) for the debarring of unlawful games: And whereas by the said statute no power is given unto the justices of the peace to demand and take from persons found playing contrary to law any other security than their own recognisances that they or any of them shall not from thenceforth use such unlawful games, unless such persons are so found playing contrary to law upon the view of one or more justice or justices of the peace: For remedy thereof, Be it further enacted by the authority aforesaid, That where it shall be proved upon the oath of two or more credible witnesses before any justice or justices of the peace as well as where such justice or justices shall find upon his or their own view that any person or persons have or hath used or exercised any unlawful game contrary to the said statute, the said justice or justices shall have full power and authority to commit all and every such offender or offenders to prison without bail or mainprize, unless and until such offender and offenders shall enter into one or more recognisance or recognisances, with sureties or without, at the discretion of the said justice or justices of the peace, that he or they respectively shall not from thenceforth play at or use such unlawful game.

2 George II.
c. 28.

Act 23 Hen. 8.
c. 9. against
unlawful Games
made more ef-
fectual.

[No. X.] 6 George II. c. 35.—An Act for appointing Commissioners to examine, state, and report who of the Sufferers in the *Charitable Corporation* are Objects of Compassion, according to the Descriptions therein mentioned, and for giving Relief to such Sufferers; and for enforcing the *Laws made against Foreign Letteries*; and for empowering the said Commissioners to hear and determine the Claims of such Creditors and Proprietors of the said Corporation, as have not made their Claims within the Time limited by an Act made in the last Session of Parliament, "for taking, stating and deter-

B.

No. X.

6 Geo. II.

c. 35.

mining all the Claims and Demands of the Creditors of the said Corporation, and of all Persons claiming any Share or Interest in the said Stock or Fund of the said Corporation."

6 George II.
c. 35.

9 Geo. I. c. 19.

XXIX. "AND whereas in an Act which passed in the ninth year of his late Majesty's reign, intituled "An Act to continue the duties for encouragement of the Coinage of Monies and for relief of *William* late Lord *Widdrington*, and to prevent foreign Lotteries being carried on in this kingdom, and for ascertaining the duty on bound Books imported, and for issuing certificates and debentures for Arrears due to five regiments to be satisfied by annuities therein mentioned, and for discharging the duties on Rock-Salt lost on the rivers *Weir* and *Merry*, and for limiting the times of continuance of Commissioners for forfeited Estates in *England* and *Scotland* respectively, and for appropriating the supplies granted to his Majesty in this session of Parliament, and to rectify misnomers and omissions of Commissioners for the Land Tax in the year one thousand seven hundred and twenty-three," provision is made against selling or disposing of any tickets in any foreign lottery under the penalty of forfeiting two hundred pounds and suffering one year's imprisonment for every such offence; yet in evasion of the said law and to the great prejudice and damage of many of his Majesty's good subjects, several evil minded persons have undertaken to keep offices for the issuing of tickets or receipts for numbers in several foreign lotteries or classes of such lotteries or have made duplicates of such lotteries contrary to the true intent and meaning of the said Act: For remedy whereof, Be it further enacted by the authority aforesaid, That from and after the twenty-fourth day of June one thousand seven hundred and thirty-three, if any person or persons shall sell procure or deliver any ticket receipt chance or number in or belonging to any foreign lottery or pretended foreign lottery or in or belonging to any class part or division of such lottery or pretended lottery or in or belonging to any undertaking whatsoever in the nature of a lottery, or shall sell procure or deliver any ticket receipt chance or number in or belonging to any duplicate or pretended duplicate of any foreign lottery or pretended foreign lottery, or shall receive or cause to be received any money whatsoever for any such ticket receipt chance or number or for or in consideration of any money to be repaid in case any ticket or tickets number or numbers in any foreign lottery or pretended foreign lottery or any class part or division thereof shall prove fortunate and shall be convicted of any of the said offences upon action of debt bill plaint or information in any of his Majesty's courts of record at *Westminster* (in which no essoign privilege protection or wager of law or more than one imparlance shall be allowed) or upon the oath or oaths or affirmation or affirmations of one or more credible witness or witnesses before two or more justices of the peace of the county division or liberty where such offence shall be committed or the offender shall be found (which oath or affirmation such justices of the peace are hereby empowered and required to administer or give) the person so convicted shall for every such offence forfeit the sum of two hundred pounds, one third part thereof to the use of his Majesty his heirs and successors, one third part thereof to him her or them who shall sue for the same or make information of the offence, and the remaining third part thereof to the poor of the parish where such offence shall be committed; the same (in case of conviction before two justices) to be levied by distress and sale of the offender's goods by warrant under the hands and seals of such justices before whom such offender shall be convicted; and shall also for every such offence by the court or by such justices as the case shall happen be committed to the county gaol, there to remain without bail or mainprize for the space of one whole year, and from thence till the said sum of two hundred pounds so forfeited as aforesaid shall be fully paid and satisfied.

2006. Penalty on Persons selling or procuring Chances in foreign Lotteries after 24th June 1733.

See farther,

12 Geo. 2. c. 28.

13 Geo. 2. c. 19.

29 Geo. 2. c. 7.

XXX. Provided nevertheless, That any person who shall think him or herself aggrieved by the judgment or determination of such justices in any of the cases aforesaid, shall have liberty to appeal to the next quarter sessions to be held for the county city or place where such judgment or determination shall be made or given, and that the judgment to be given by the justices of the next quarter-sessions shall be final.

No. X.
6 Geo. II.
c. 35.

Appeal to the
shall be final.

Quarter Sessions, whose Determination

XXXI. ' And whereas by reason of the absence of several persons being creditors and others of the said corporation and of other impediments and disabilities their respective claims could not be received heard adjusted and determined within the time limited and prescribed by the Act herein first recited; Be it therefore enacted by the authority aforesaid, That the said *Robert Holford John Bennet James Lightboun William Kynaston and Francis Edle* or any three or more of them shall have full power and authority to state and ascertain the accounts and to hear and determine the claims and demands of all and every such person and persons being creditors of the said corporation, or intitled to any share or shares in the stock or fund of the said corporation or any ways interested in any of the effects of or belonging to the same, as have not made and entered their respective claims in the manner and within the time limited directed and prescribed by the said Act; provided the said claims be made on or before the twenty-fifth day of *December* in the year of our Lord one thousand seven hundred and thirty-three; any thing contained in the said Act to the contrary notwithstanding.

Relief for
Claims not de-
termined in the
Time limited by
the former Act.

[No. XI.] 12 George II. c. 28.—An Act for the more effectual preventing of excessive and deceitful Gaming. (1)

' WHEREAS in and by an Act of Parliament made and passed in the tenth and eleventh years of the reign of his late Majesty King William the Third, intituled " An Act for suppressing of Lotteries;" after reciting that for divers years before making the said Act several evil disposed persons had set up many unlawful games called lotteries, not only in the city of *London* and *Westminster* and in the suburbs thereof but in most of the ancient towus and places in *England* and the dominion of *Wales*, and had thereby most unjustly and fraudulently gotten to themselves great sums of money from the children and servants of several gentlemen traders and merchants and from other unwary persons to the utter ruin and impoverishment of many families, it is declared and enacted, That all such lotteries and all other lotteries are common and publick nuisances: And whereas in order to suppress all such lotteries, it is in and by the said statute enacted and declared, That from and after the twenty-ninth day of *December* which shall be in the year of our Lord one thousand six hundred and ninety-nine no person or persons whatsoever shall publicly or privately exercise keep open shew or expose to be played at drawn or thrown at or shall draw play or throw at any such lottery or other lotteries, either by dice lots cards balls or any other number or figures or any other way whatsoever under such penalties as in the said Act are mentioned and set forth; which said statute is enforced by an Act of Parliament made in the ninth year of the reign of her late Majesty Queen *Anne*, intituled " An Act for reviving continuing and appropriating certain duties upon several commodities to be exported, and certain duties upon coals to be waterborne and carried coastwise; and for granting further duties upon candles for thirty-two years; to raise fifteen hundred thousand pounds by way of a lottery for the service of the year one thousand seven hundred and eleven; and for suppressing such unlawful lotteries and such insurance-offices as are therein-mentioned:" And whereas in and by

12 George II.
c. 28.
10 & 11 Will. 3.
c. 17.

9 Anne, c. 6.
§ 56.
10 Ann, c. 26.
§ 109.

(1.) The Stat. 27 Geo. 3. c. 1. which takes away the summary jurisdiction of Magistrates over Offences concerning the Lottery, only extends to State Lotteries; and does not repeal their power over games of Chance or Lotteries prohibited by this Stat. *Rex v. Liston*, 5 T. R. 338.

No. XI.

18 Geo. II.

c. 28.

8 Geo. I. c. 2.

§ 34.

9 Geo. I. c. 19.

one other Act of Parliament made and passed in the eighth year of the reign of his late Majesty King George the First, intituled "An Act for continuing the duties on malt mum cyder and perry to raise money by way of a lottery for the service of the year one thousand seven hundred and twenty-two; and for transferring the deficiencies of a late malt Act to the land tax for the said year; and for giving time for inserting the money given with apprentices in their indentures; and touching lost bills tickets or orders; and for exchanging the tickets in the Exchequer for certificates; and for suppressing lotteries denominated sales and other private lotteries; and for enlarging the time for the Accountant General of the Bank of England to return duplicates of annuities into the Exchequer;" it is enacted, That all and every person or persons who after the twenty-first day of December in the year of our Lord one thousand seven hundred and twenty-one shall erect set up continue or keep or shall cause or procure to be erected set up continued or kept any office or place under the denomination of sales of houses lands advowsons presentations to livings plate jewels ships goods or other things for the improvement of small sums of money, or shall sell or expose to sale any houses lands advowsons presentations to livings plate jewels ships goods or other things by way of lottery or by lots tickets numbers or figures; or shall make print advertise or publish or cause to be made printed advertised or published proposals or schemes for advancing small sums of money by several persons amounting in the whole to large sums, to be divided among them by the chances of the prizes in some public lottery or lotteries established or allowed by Act of Parliament; or shall deliver out or cause or procure to be delivered out tickets to the persons advancing such sums to entitle them to a share of the money so advanced according to such proposals or schemes; or shall make print or publish or cause to be made printed or published any proposal or scheme of the like kind or nature under any denomination name or title whatsoever, and shall be thereof convicted upon the oath or oaths of one or more credible witness or witnesses, by two or more justices of the peace of the county division or liberty where such offence shall be committed or the offender shall be found, which oath such justices of the peace are hereby empowered and required to administer; the person so convicted shall for every such offence over and above any former penalties inflicted by any former Act or Acts of Parliament made against any private or unlawful lotteries forfeit the sum of five hundred pounds, one third part thereof to his Majesty his heirs and successors, and one other third part thereof to the informer, and the remaining third part thereof to the poor of the parish where such offence shall be committed; the same to be levied by distress and sale of the offender's goods by warrant under the hands and seals of such justices before whom such offender shall be convicted as aforesaid; and shall also for every such offence by such justices be committed to the county gaol, there to remain without bail or mainprize for the space of one whole year, and from thence till the sum of five hundred pounds so forfeited as aforesaid shall be fully paid and satisfied: Provided nevertheless, That any person who shall think himself or herself aggrieved by the judgment or determination of two or more such justices in any the cases aforesaid, shall have liberty to appeal to the next quarter sessions to be held for the county city or place where such judgment or determination shall be made or given; and that the judgment to be given by the justices of the said next quarter sessions shall be final: And whereas it is found by experience, that the said good and wholesome laws have not effectually answered the good ends intents and purposes in and by the said Acts designed; but that contrary to the true intent and meaning of the said recited Acts several deceitful games and subscriptions are daily carried on under the denomination of sales of houses lands plate jewels goods and other things; and that several printers have printed published or caused to be printed and published proposals or schemes for the sale of such houses lands plate jewels goods and other things, to be determined by raffles by mathematical

machines or engines and by other indirect ways and means, tending to evade the said good and wholesome laws before mentioned: And whereas several persons have for many years past carried on and set up certain fraudulent games and lotteries to be determined by the chance of cards and dice, under the denomination of the games of the ace of hearts pharaoh basset and hazard, and thereby defrauded several of his Majesty's subjects, ignorant of the great disadvantage adventurers in the said games and lotteries so denominated the games of the ace of hearts pharaoh basset or hazard are under subject and liable to: And whereas several doubts have arisen whether the said games of the ace of hearts pharaoh basset and hazard are within the descriptions of the lotteries prohibited by the said recited Acts of Parliament: And whereas great difficulties have arisen upon the methods of conviction of the offenders against the said Acts of Parliament: For remedy whereof and for explaining and making more effectual the said Acts of Parliament, may it please your most excellent Majesty that it may be enacted, and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That if any person or persons shall after the twenty-fourth day of June one thousand seven hundred and thirty-nine erect set up continue or keep any office or place under the denomination of a sale or sales of houses land advowsons presentations to livings plate jewels ships goods or other things by way of lottery, or by lots tickets numbers or figures cards or dice; or shall make print advertise or publish or cause to be made printed advertised or published proposals or schemes for advancing small sums of money by several persons amounting in the whole to large sums, to be divided among them by chances of the prizes in some publick lottery or lotteries established or allowed by Act of Parliament, or shall deliver out or cause or procure to be delivered out tickets to the persons advancing such sums to intitle them to a share of the money so advanced according to such proposals or schemes; or shall expose to sale any houses lands advowsons presentations to livings plate jewels ships or other goods by any game method or device whatsoever depending upon or to be determined by any lot or drawing, whether it be out of a box or wheel or by cards or dice or by any machine engine or device of chance of any kind whatsoever; such person or persons and every or either of them shall upon being convicted thereof before any one justice of the peace for any county riding or division, or before the mayor or other justice or justices of the peace for any city or town corporate upon the oath or oaths of one or more credible witness or witnesses (which said oaths the said justices of the peace and mayor are hereby authorised empowered and required to administer) or upon the view of such justice or justices or the mayor justice or justices for any city or town corporate or on the confession of the party or parties accused; shall forfeit and lose the sum of two hundred pounds to be levied by distress and sale of the offender's goods, by warrant under the hands and seals of one or more justice or justices of the peace of such county riding division city or town where the offence shall be committed; which said forfeitures when recovered after deducting the reasonable charges of such prosecution shall go and be applied one third thereof to the informer and the remaining two thirds to the use of the poor of the parish where such offence shall be committed, excepting the said two thirds of such forfeitures which shall be incurred by and recovered upon any person or persons within the city of Bath, which said two thirds shall go and be applied to and for the use and benefit of the poor residing within the hospital or infirmary lately erected for the benefit of poor persons resorting to the said city for the benefit of the mineral waters, after deducting the charges of conviction as aforesaid. (1.)

No. XI.
12 Geo. II.
c. 28.

2001. Penalty
on any Offences
against this Act.

The same how
to be levied and
applied.

(1.) The Court refused to quash a Conviction on this Statute, directing the Penalty to be distributed according to that Act, though it appeared in the Certiorari that the Conviction was made at one of the Seven Public Offices esta-

lished by Stat. 32 Geo. 3. c. 53. which directs that all Penalties levied by the Justices under that Act shall be paid to the receivers appointed by that Act. 5 T. R. 338.

No. XI.

12 Geo. II.
c. 28.Games within
the Intent of
the Act.

II. And it is hereby enacted and declared, That the said games of the ace of hearts pharaoh basset and hazard are and are hereby declared to be games or lotteries by cards or dice within the intent and meaning of the said in part recited Acts; and that all and every person or persons who shall set up maintain or keep the said games of the ace of hearts pharaoh basset and hazard shall be subject and liable to all and every the penalties and forfeitures in and by this Act inflicted upon any person or persons who shall erect set up continue or keep any of the said games or lotteries in this present Act mentioned; and shall be prosecuted and convicted, and the penalties and forfeitures shall be sued for and recovered in like manner as the said penalties and forfeitures are by this Act directed to be sued for and recovered.

50*l*. Penalty on
the Adventur-
ers.

III. And be it further enacted by the authority aforesaid, That all and every person and persons who shall be adventurers in any of the said games lottery or lotteries sale or sales; or shall play set at stake or punt at either of the said games of the ace of hearts pharaoh basset and hazard, and shall be thereof convicted in such manner and form as in and by this Act is prescribed; every such person or persons shall forfeit and lose the sum of fifty pounds to be sued for and recovered as aforesaid.

Sales by Lot-
teries void;

IV. And it is hereby further enacted by the authority aforesaid, That all and every such sale or sales of houses lands advowsons presentations to livings plate jewels ships goods or other things, by any game lottery or lotteries machine engine or other device whatsoever depending upon or to be determined by chance or lot, shall and are hereby declared to be void to all intents and purposes whatsoever: And all such houses lands advowsons presentations to livings plate jewels ships goods or other things set up and exposed to sale in manner and form aforesaid shall be forfeited to such person or persons who shall sue for the same by action bill plaint or information in any of his Majesty's courts of record, or at the assizes for any county where the offence shall be committed; in which action bill plaint or information no essoign protection wager of law or more than one imparlance shall be allowed.

and Lands, &c.
forfeited.

Appeal.

V. Provided always and it is hereby declared and enacted, That if any person or persons shall think him her or themselves aggrieved by the judgment or determination of any justice or justices of the peace or mayor as aforesaid upon any conviction of or for any of the offences in this Act; such person or persons may appeal from the said judgment of the said justice or justices or mayor to the next general quarter sessions of the peace for the said county riding division city or place where such person or persons was or were convicted; but the person and persons so appealing shall and he she and they are hereby directed to give reasonable notice to the prosecutor or prosecutors of such person or persons as shall so appeal; of such his her or their intencion of bringing and prosecuting such appeal, and shall enter into a recognisance before some justices of the peace for the county riding division city or place wherein the conviction or judgment was made or given with two sufficient sureties, on condition to try such appeal at the next quarter sessions which shall be held in and for the county riding division city or place wherein such conviction or judgment was made or given next and immediately after the bringing such appeal; and every such appeal and appeals shall by the Court at the said next general quarter sessions to which such appeal and appeals is or are made be then examined and the matter then finally heard and determined and not afterwards; and in case such judgment determination or conviction as aforesaid shall be then and there affirmed, the party appealing shall pay unto the prosecutor or prosecutors his her or their treble costs; and such prosecutor and prosecutors shall have such remedy for the same as any defendant or defendants hath or have for costs of suit in any other cases by law.

Convictions.

VI. Provided always and be it further enacted by the authority aforesaid, That no such conviction made or judgment given as aforesaid by this Act shall be set aside by the said court of quarter sessions for want of form in case the facts alleged in the said conviction shall be proved

to the satisfaction of the said Court; nor shall such conviction or judgment be removed or removable by *certiorari* or any other writ or process whatsoever into any of his Majesty's courts of record at *Westminster*, until such order or other proceedings shall have been first removed to and judgment and determination given and made thereupon by such court of quarter sessions as aforesaid.

VII. Provided also and be it further enacted by the authority aforesaid, That no writ of *certiorari* or other process shall issue or be issuable to remove the record of any such conviction from the said court of quarter sessions, or to remove any order or other proceedings taken or made by the said court of quarter sessions upon touching or concerning such conviction into any of his Majesty's courts of record at *Westminster*, until the party or parties against whom such conviction shall be made before the allowance of such writ of *certiorari* or other process shall find two sufficient sureties to become bound to the prosecutor in the sum of one hundred pounds, with condition to prosecute the same with effect within six calendar months and to pay unto the prosecutor or prosecutors his her or their treble costs and charges, in case such order or conviction shall be affirmed.

VIII. And it is hereby further enacted and declared, That if any person or persons who shall be convicted of erecting setting up maintaining or keeping any of the said lotteries or the said games of the ace of hearts pharaoh basset or hazard, or therein or in either of them shall adventure and shall not have sufficient goods and chattels whereon to levy the penalties inflicted by this Act, or shall not immediately pay the said penalties or give security for the same; it shall and may be lawful for the said justice or justices before whom such person shall be convicted as aforesaid, to commit such person or persons to the common gaol of the county riding division city or place where such offence shall be committed, there to continue and remain for any time not exceeding six months.

IX. And be it also enacted, That if any justice of the peace or any other justice herein before described or mayor of any corporation, shall neglect or refuse to do what is required of him and them by this Act; such justices and mayors so neglecting or refusing shall respectively forfeit and pay the sum of ten pounds for each offence; one moiety whereof to be paid to any person or persons who shall sue for the same, and the other moiety thereof to the poor of the parish or place where such offence shall be committed; and shall be recovered with full costs of suit by action bill plaint or information in any of his Majesty's courts of record or at the assize for any county; in which action bill plaint or information no essoign protection or wager of law nor more than one imparlance shall be allowed; such prosecution being commenced within six months next after such refusal of such justices or mayor.

X. Provided always and it is hereby enacted and declared, That nothing in this Act or in any former Acts against gaming contained shall extend to prevent or hinder any person or persons from gaming or playing at any of the games in this or in any of the said former Acts mentioned within any of his Majesty's royal palaces where his Majesty his heirs or successors shall then reside.

XI. Provided always and it is hereby further enacted and declared, That nothing herein contained shall extend or be any ways construed deemed or taken to extend or in any sort to affect or prejudice any estate or interest in out of or to any manors honours royalties lands tenements advowsons presentations rents services and hereditaments whatsoever, which shall and may at any time or times hereafter be according to the laws now in being legally allotted to or held by or by means of any allotment or partition by lots; but that all persons who now are or that shall hereafter become really and truly seised as part-owners joint-tenants and tenants in common of any manors honours royalties lands tenements advowsons presentations rents services and hereditaments, shall and he she and they and his her and their heirs and assigns is and are hereby made and continued capable to accept and take such estates

No. XI.

12 Geo. II.

c. 28.

Record removable, upon 100l. Security.

Offenders not able to pay the Penalties to be imprisoned.

Penalty on Neglect of Justices or Mayors.

This Act not to hinder any Games in Palaces, where the King resides,

nor to affect the Right to any Lands, &c. held by Lot.

No. XI.

13 Geo. II.
c. 28.Limitation of
Actions.

General Issue.

Tresple Costs.

and interest and parts therein, in such and the like manner and to such and the like uses as he she or they might would or could have done by or by virtue or in consequence of any lot scroll chance or allotment whatsoever had this present Act never been made; any thing herein contained to the contrary thereof notwithstanding.

XII. And be it further enacted by the authority aforesaid, That if any suit or action shall be commenced or prosecuted against any person or persons for any thing done in pursuance of this Act, every such suit or action shall be commenced within three calendar months next after the fact was committed and not afterwards; and shall be laid or brought in the county city or place where the cause of action shall arise and not elsewhere; and the defendant and defendants therein shall and may plead the general issue and give this Act and the special matter in evidence at the trial to be had thereupon, and that the same was done in pursuance of or by the authority of this Act; and if the plaintiff or plaintiffs shall become nonsuited or discontinue his her or their action or actions suit or suits, or if upon demurrer judgment shall be given against the plaintiff or plaintiffs; the defendant or defendants shall and may recover treble costs and have like remedy for the same, as any defendant or defendants hath or have for costs in any other cases by law.

[No. XII.] 13 George II. c. 19.—An Act to restrain and prevent the excessive Increase of Horse Races, and for amending an Act made in the last Session of Parliament, intituled “An Act for the more effectual preventing of excessive and deceitful Gaming.”

13 George II.
c. 19.Horses to be
entered by the
Owners.and no more
than one a
Time.No Plate to be
run for under
50*l.* Value, -

‘ WHEREAS the great number of horse races for small plates prizes or sums of money have contributed very much to the encouragement of idleness, to the impoverishment of many of the meaner sort of the subjects of this kingdom, and the breed of strong and useful horses hath been much prejudiced thereby:’ For remedy thereof may it please your most excellent Majesty that it may be enacted; and be it enacted by the King’s most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That from and after the twenty-fourth day of June one thousand seven hundred and forty no person or persons whatsoever shall enter start or run any horse mare or gelding for any plate prize sum of money or other thing, unless such horse mare or gelding shall be truly and *bona fide* the property of and belonging to such person so entering starting or running the same horse mare or gelding; nor shall any one person enter and start more than one horse mare or gelding for one and the same plate prize sum of money or other thing; and in case any person or persons shall after the said twenty-fourth day of June one thousand seven hundred and forty enter start or run any horse mare or gelding, not being the property truly and *bona fide* of such person so entering starting or running the same for any plate prize sum of money or other thing, the said horse mare or gelding or the value thereof shall be forfeited, to be sued for and recovered and disposed of in manner as is hereinafter mentioned; and in case any person or persons shall enter and start more than one horse mare or gelding for one and the same plate prize or sum of money or other thing, every such horse mare or gelding (other than the first entered horse mare or gelding) or the value thereof shall be forfeited, to be sued for and recovered and disposed of in manner as hereinafter is mentioned.

II. And be it further enacted by the authority aforesaid, That from and after the said twenty-fourth day of June one thousand seven hundred and forty no plate prize sum of money or other thing shall be run for by any horse mare or gelding, or advertised published or proclaimed to be run for by any horse mare or gelding, unless such plate prize or sum of money shall be of the full real and intrinsic value of fifty pounds,

(1) or upwards; and in case any person or persons shall from and after the twenty-fourth day of June one thousand seven hundred and forty enter start or run any horse mare or gelding for any plate prize sum of money or other thing of less value than fifty pounds, or shall make, print advertise publish or proclaim any advertisement or notice of any plate prize sum of money or other thing of less value than fifty pounds as aforesaid, to be run for by any horse mare or gelding; every such person or persons so entering starting or running such horse mare or gelding for such plate prize sum of money or other thing of less value than fifty pounds as aforesaid shall forfeit and lose the sum of two hundred pounds, to be sued for recovered and disposed of in such manner as is herein-after prescribed and directed; and every person or persons who shall make print publish advertise or proclaim any advertisement or notice of any plate prize sum of money or other thing of less value than fifty pounds aforesaid to be run for by any horse mare or gelding shall forfeit and lose the sum of one hundred pounds (2.)

III. And be it further enacted by the authority aforesaid, That from and after the twenty-fourth day of June one thousand seven hundred and forty no horse mare or gelding being of the age of five years shall be entered started or run for any plate prize sum of money or other thing whatsoever, unless such horse mare or gelding shall carry ten stone weight, computing fourteen pounds to each stone weight; and that no horse mare or gelding being of the age of six years shall be entered started or run for any plate prize sum of money or other thing whatsoever, unless such horse mare or gelding shall carry eleven stone weight, computing fourteen pounds to each stone weight; and that no horse mare or gelding being of the age of seven years shall be entered started or run for any plate prize sum of money or other thing whatsoever, unless such horse mare or gelding shall carry twelve stone weight, computing fourteen pounds to each stone weight; and in case any person or persons shall enter start or run any horse mare or gelding of either of the ages aforesaid for any plate prize or sum of money or other thing carrying less than the weights herein-before directed to be carried, such horse mare or gelding or the value thereof shall be forfeited, and the person or persons so entering starting or running such horse mare or gelding shall forfeit and lose the sum of two hundred pounds.

IV. Provided also, That every race that shall be hereafter run for any plate prize or sum of money be begun and ended in the same day.

V. And be it further enacted by the authority aforesaid, That from and after the twenty-fourth day of June one thousand seven hundred and forty no person or persons whatsoever shall start or run any match with or between any horse mare or gelding for any sum of money plate prize or other thing whatsoever, unless such match shall be started or run at *Newmarket Heath* in the counties of *Cambridge* and *Suffolk* or *Black Hambleton* in the county of *York*, or the said sum of money plate prize or other thing be of the real and intrinsic value of fifty pounds or upwards: And in case any person or persons shall start or run any such match at any other place than *Newmarket Heath* or *Black Hambleton* aforesaid, or for any plate prize sum of money or other thing of less value than fifty pounds every such person or persons shall forfeit and lose the sum of two hundred pounds.

No. XII.
13 Geo. II.
c. 19.

on Penalty of
200*l*.

Five Years' old
Horses to carry
Ten Stone.

Six Years old
11 Stone.

7 Years old
12 Stone.

This Clause is
repeated by
18 Geo. 2. c. 24.
§ 11.
See 4 Burr.
2432.

Races to be
begun and end-
ed in one Day.

Matches to be
at Newmarket
and Black
Hambleton
only, and for
not less than
50*l*.

(1.) A Race between two Persons for 25*l*. a side, one giving the other 5*l*. is a Race for 50*l*. to which the one contributes 30*l*. and the other 20*l*.: *Bidmead v. Gale*, 4 Burr. 2432. No Action can be brought upon a Wager on a Race prohibited by this Clause: *Johnson v. Bann*, 4 T. R. 1.

A wager, that a single horse should go from A. to B., on the high road, sooner than one of two other horses to be placed at any distance their Owner should please, cannot be recovered; this being a transaction prohibited by Stat. 16 Car. 1. c. 7. § 2. and 9 Ann. c. 14. and not legalized by 13 Geo. 2. c. 19, or 18 Geo. 2. c. 34. which lat-

ter Statutes relate to bona fide horse-racing only. *Whaley v. Pajot*, 2 B. and P. 51.

(2.) Where, by the terms of a horse-race, the Entrance-money is to be given to the second best horse, and it is doubtful, on the wording of those terms, whether all the money paid at the entering each Horse is to be considered as Entrance-money, the Court of C. P. will put such a construction on the terms as will conclude the whole in the description of Entrance-money to be given to the second best Horse, being most agreeable to Stat. 13 Geo. 2. c. 19. § 2 & 7. *Dowson v. Scriven*, 1 H. B. 216.

No. XII.

18 Geo. II.
c. 19.

Entrance-money to be paid to the second best Horse.

Gifts left for annual Races not to be altered.

12 Geo. 2.
c. 28.

Game of Passage and other Games with Dice prohibited.
See further
29 Geo. 2. c. 7.

VI. And be it further enacted by the authority aforesaid, That all penalties and forfeitures incurred by any person or persons for any offence against this Act shall be sued for and recovered by any action bill plaint or information in any of his Majesty's courts of record at *Westminster*, or at the assizes, and shall be disposed of one moiety thereof to the use of such person or persons as shall so sue for the same, and the other moiety to the use of the poor of such parish or place where the offence shall be committed: except such one moiety of such penalties and forfeitures as shall be incurred by and recovered of any person or persons within the county of *Somerset*; which said one moiety shall go and be applied to and for the use and benefit of the poor persons admitted into the hospital or infirmary lately erected in the city of *Bath*, for the benefit of poor persons resorting to the said city for the benefit of the mineral waters there.

VII. And be it further enacted by the authority aforesaid, That from and after the twenty-fourth day of *June* one thousand seven hundred and forty all and every sum or sums of money to be paid for entering of any horse mare or gelding, to start or run for any plate prize sum of money or other thing, shall go and be paid to the second best horse mare or gelding which shall start or run for such plate prize or sum of money as aforesaid.

VIII. Provided always, That nothing herein contained shall extend or be construed to extend to prevent the starting or running any horse mare or gelding for any plate prize or other thing or things now issuing out of or paid for or by the rents issues and profits of any lands tenements or hereditaments, or of or by the interest of any sum or sums of money now chargeable with the same or appropriated for that purpose.

IX. ' And whereas a good and wholesome law was made in the twelfth year of the reign of his present Majesty King *George* the Second, intitled, " An Act for the more effectual preventing of excessive and deceitful Gaming;" but contrary to the true intent and meaning thereof, ' some fraudulent and deceitful games have been invented, and a certain ' game called *passage* is now daily practised and carried on to the ruin ' and impoverishment of many of his Majesty's subjects; ' It is therefore hereby enacted and declared, That the said game of *passage* and all and every other game and games invented or to be invented with one or more die or dice or with any other instrument engine or device in the nature of dice having one or more figures or numbers thereon (*backgammon* and the other games now played within the *backgammon* tables only excepted) are and shall be deemed to be games or lotteries by dice, within the intent and meaning of the said in part recited Act; and all and every person and persons who shall set up maintain or keep any office table or place (save and except as in the said in part recited Act is provided and declared) for the said game of *passage* or for any other such game or games as aforesaid (*backgammon* and the other games now played with the *backgammon* tables only excepted) shall severally forfeit be subject and liable to all and every the penalties and forfeitures in and by the said in part recited Act inflicted upon any person or persons who shall erect set up continue or keep any of the games or lotteries in the said in part recited Act mentioned; and all and every person or persons who shall play set at stake or adventure at the said game of *passage* or at any other such game as aforesaid (*backgammon* and the other games now played with the *backgammon* tables only excepted) save and except as in the said in part recited Act is provided and declared, he and they respectively shall severally forfeit be subject and liable to all and every the penalties and forfeitures in and by the said in part recited Act inflicted upon any person or persons who shall play set at stake or adventure at any of the said games in the said in part recited Act mentioned; and all and every such offenders respectively shall be prosecuted and convicted, and the several penalties and forfeitures shall be sued for and recovered and disposed of in like manner and to such uses as the several penalties and forfeitures in either of such cases are by the said in part recited Act directed to be sued for and recovered and disposed of.

X. And be it further enacted by the authority aforesaid, That in any action bill plaint or information to be brought or commenced by virtue of

this Act, no essoign protection wager of law or more than one imparlance shall be allowed; and that over and above the penalties and forfeitures to be recovered by virtue of this Act, the plaintiff or informer shall recover his or her double costs.*

No. XII.
13 Geo. II.
c. 19.

* Double Costs.

[No. XIII.] 18 George II. c. 34.—An Act to explain, amend, and make more effectual the Laws in being, to prevent excessive and deceitful Gaming; and to restrain and prevent the excessive Increase of Horse Races.

[Inserted ante Part III.]

[No. XIV.] 25 George II. c. 36.—An Act for the better preventing Thefts and Robberies, and for regulating Places of Public Entertainment, and punishing Persons keeping disorderly Houses.

[See Chronological Table.]

[No. XV.] 27 George III. c. 1.—An Act to render more effectual the Laws now in being for suppressing unlawful Lotteries. (1.)

WHEREAS the good and wholesome laws from time to time made and provided for the suppression of unlawful lotteries, and against adventuring in lotteries established by Acts of Parliament in Great Britain or Ireland by unlawful sales of chances of tickets and by insuring for or against the drawing of such tickets have not been found effectual for the purposes intended thereby: And whereas in and by an Act of Parliament made and passed in the eighth year of the reign of his late Majesty King George the First, intituled “An Act for continuing the duties on malt mum cyder and perry, to raise money by way of a lottery for the service of the year one thousand seven hundred twenty-two; and for transferring the deficiencies of a late malt Act to the land-tax for the said year; and for giving time for inserting the money given with apprentices in their indentures; and touching lost bills tickets or orders; and for exchanging the tickets in the Exchequer for certificates; and for suppressing lotteries denominated sales and other private lotteries; and for enlarging the time for the Accountant General of the Bank of England to return duplicates of annuities into the Exchequer;” it is amongst other things enacted, That all and every person or persons who after the twenty-first day of December in the year of our Lord one thousand seven hundred and twenty-one shall make print advertise or publish or cause to be made printed advertised or published proposals or schemes for advancing small sums of money by several persons amounting in the whole to large sums, to be divided among them by the chances of the prizes in some publick lottery or lotteries established or allowed by Act of Parliament; or shall deliver out or cause or procure to be delivered out tickets to the persons advancing such sums, to intitle them to a share of the money so advanced according to such proposals or schemes; or shall make print or publish or cause to be made printed or published any proposal or scheme of the like kind or nature under any denomination name or title whatever, and shall be thereof convicted upon the oath or oaths of one or more credible witness or witnesses, by two or more justices of the peace of the county division or liberty where such offence shall be committed

27 George III.
c. 1.
Preamble.

8 Geo. I. c. 2.

(1.) This Stat. only extends to State Lotteries; over Games of Chance or Lotteries prohibited by and does not repeal the power of Magistrates 12 Geo. 2. c. 28. Rex v. Liston, 5 T. R. 336.

No. XV:

27. Geo. III.
c. 1.

22 Geo. 2. c. 28.
and 22 Geo. 3.
c. 47. recited ;

and the Powers
thereby given to
continue in
force, except
such as are
hereby altered.

After the pass-
ing of this Act,
Penalties incur-
red under
the recited
Acts may be
sued for by any
Persons whom-
soever within
Six Months.

Application of
Penalties.

In every Ac-
tion for Penal-
ties, the De-
fendant to give
Bail to answer
it.

Bail not to ex-
ceed 500*l*.

‘ or the offender shall be found, shall for such offence, over and above
‘ any former penalties inflicted by any former Act or Acts of Par-
‘ liament made against any private or unlawful lotteries, forfeit the sum
‘ of five hundred pounds: And whereas in and by two other Acts of Par-
‘ liament, the one thereof made and passed in the twelfth year of the
‘ reign of his late Majesty King *George the Second*, intituled, “ An Act
‘ for the more effectual preventing of excessive and deceitful Gaming;”
‘ and the other thereof made and passed in the twenty-second year of the
‘ reign of his present Majesty, intituled, “ An Act for licensing Lottery-
‘ office Keepers and regulating the sale of Lottery Tickets;” many good
‘ and wholesome provisions are enacted which require to be maintained
‘ and carried more effectually into execution: And whereas great diffi-
‘ culties have arisen upon the methods of conviction of offenders against
‘ the said recited Acts before justices of the peace, and many evasions of
‘ the said recited Acts are daily put in practice; For remedy whereof,
‘ may it please your Majesty that it may be enacted, and be it enacted
‘ by the King’s most excellent Majesty, by and with the advice and consent
‘ of the Lords Spiritual and Temporal and Commons in this present Par-
‘ liament assembled, and by the authority of the same, That all and every
‘ the said recited Acts and every article and thing in them contained,
‘ touching and concerning lotteries and not by this Act altered or repealed
‘ or other provision made in lieu thereof, shall be duly put in execution
‘ according to the tenor of the said recited Acts and under the penalties
‘ therein contained to be raised levied and disposed of as in and by this
‘ Act is directed.

II. And be it further enacted by the authority aforesaid, That from
and after the day on which this Act shall receive his Majesty’s royal
assent no pecuniary penalty or penalties which shall be incurred by any
person or persons offending against such parts of the said Acts or any of
them as touch and concern lotteries shall be recovered or recoverable
before any justice or justices of the peace, but shall and may be sued for
by any person or persons whomsoever at any time within six calendar
months next after such offence shall be committed, and recovered by
action of debt bill plaintiff suit or information in any of his Majesty’s courts
of record at *Westminster*, in which no essoin protection wager of law or
more than one imparlance shall be allowed; and one moiety of the said
respective penalties when recovered shall in every such case go and be
applied to the use of his Majesty his heirs and successors, and the other
moiety with full costs of suit to the person or persons who shall sue or
prosecute for the same respectively; and upon every such action bill
plaint suit or information a *capias* or other writ shall and may issue; the
first process specifying therein the amount of the penalty or penalties
sued for, whereof an affidavit shall be first duly made and filed; and the
defendant or defendants shall in such case be obliged to give sufficient
bail or security, by natural-born subjects persons naturalized or denizens,
to the person or persons to whom such *capias* or other writ shall be di-
rected to appear in the court out of which such process shall be issued at
the day of the return of such process to answer such suit or prosecution,
and shall likewise at the time of such appearance give sufficient bail or
security by such persons as aforesaid in the said court to answer and pay
all the forfeitures and penalties incurred for such offence or offences,
together with the costs of suit, in case he she or they shall be convicted
thereof, or to yield his her or their body or bodies to prison: Provided
always, That the bail herein-before required to be given shall in no case
exceed the sum of five hundred pounds. (2.)

(2.) A Plaintiff who sues for Penalties under this Section must make an Affidavit previous to the suing out of the Writ, specifying the amount of the Penalties sued for. *King v. Horne*, 4 T.R. 349. And the Affidavit should specify the nature of the Offence, and aver that the Defendant has incurred the forfeiture; but the Offence need not be described circumstantially; nor

is the Plaintiff obliged to swear that the Defendant is indebted to him to the amount of the Penalty. *Davis v. Mazzinghi*, 1 T. R. 705.

If the Affidavit state an Act to have passed in the 27 Geo. 3. which was passed in the 22 Geo. 3. under which a Penalty was incurred, it is a fatal objection, even though the title of the Act be properly set forth, 2 T. R. 654.

No. XV.

27 Geo. III:
c. 1.17 Geo. 2.
c. 5. recited,and extended
to Persons who
shall deal in
Tickets with-
out taking out a
Licence pur-
suant to 22
Geo. 3. or sell
Chances, &c.Justices to com-
mit Offenders
to the House of
Correction till
the next Quar-
ter Sessions.

III. ' And whereas in and by an Act made and passed in the seven-
teenth year of the reign of his late Majesty King *George* the Second,
' intituled " An Act to amend and make more effectual the Laws relating to
' Rogues Vagabonds and other idle and disorderly Persons and to Houses of
' Correction," it is enacted, That all persons playing or betting at any
' unlawful games or plays shall be deemed rogues and vagabonds within
' the true intent and meaning of that Act: And whereas all lotteries not
' established by Act of Parliament in *Great Britain or Ireland* are de-
' clared to be common and publick nuisances: And whereas all adven-
' turing with lottery tickets in such lotteries as are established by Act of
' Parliament other than by the actual sale of tickets and of such shares
' thereof as are permitted by law to be sold is wholly prohibited by the
' said Act of the twenty-second year of the reign of his present Majesty:
' And whereas it would tend greatly to suppress such abuses in the
' lottery now established, and in all future lotteries that may hereafter
' be established by law, if the person and persons guilty of any of the
' offences against this Act or such parts of the herein-before mentioned
' Acts or any of them as touch and concern lotteries might be punishable
' under the said Act passed in the seventeenth year of the reign of his
' said late Majesty, except in cases of insurances on tickets by persons
' actually possessed thereof, under the restrictions herein-after men-
' tioned; Be it therefore further enacted by the authority aforesaid,
That from and after the day on which this Act shall receive his Majesty's
royal assent, all and every person and persons who shall publickly or
privately open set up continue or keep by himself or herself or by any
other person or persons any office or other place for buying selling or
otherwise dealing in any tickets or any shares of tickets in any lottery
now established or hereafter to be established by any *British or Irish* Act
of Parliament, or for registering the numbers of such tickets without
the authority of a licence duly obtained for that purpose from the com-
missioners for managing the duties upon stamped vellum parchment and
paper for the time being, in the manner in and by the said recited Act
of the twenty-second year of the reign of his present Majesty directed;
and all and every person and persons (except as herein-after is provided)
who shall by himself herself or themselves or by any other person or
persons or for his her or their own account or for or on the account or as the
servant agent or factor of any other person or persons sell or cause
or procure to be sold the chance or chances of any such ticket or tickets
or any share or shares thereof for a day or part of a day or any less time
than the whole time of drawing in any such lottery then to come; or
insure or cause or procure any other person or persons to insure for or
against the drawing of any such ticket or tickets, or shall receive any
money or goods whatsoever in consideration of any agreement or promise
to repay any sum or sums of money or to deliver the same or any plate
jewels or other goods whatsoever, if any such ticket or tickets shall prove
fortunate or unfortunate, or upon any other chance or chances event or
events contingency or contingencies relative or applicable to the drawing
of any such ticket or tickets, whether as to the time of their being
drawn or otherwise howsoever, shall be deemed rogues and vagabonds
within the true intent and meaning of the said recited Act of the seven-
teenth year of the reign of his said late Majesty and shall be punishable
as such rogues and vagabonds accordingly; and all persons who shall be
found offending against this Act in the manner above-mentioned shall
and may be apprehended and conveyed before some justice or justices of
the peace as in and by the said recited Act in relation to the rogues and
vagabonds therein described is directed; and the justice or justices
before whom such offender shall be brought, such offender not having
been sued or prosecuted for the same offence without covin or collusion
in some of his Majesty's courts of record by such action of debt bill
plaint suit or information as aforesaid, shall and may upon full and suf-
ficient proof of the offence in the manner in and by the said recited Act
directed order such offender to be sent to the house of correction, there
to remain until the next general or quarter sessions of the peace for the

No. XV.
27 Geo. III.
c. 1.

The Powers of
recited Act
17 Geo. 2. ex-
tended to this
Act.

From the pass-
ing of this Act,
the Possessor of
a whole Ticket
may insure it,
by a written
Agreement, for
its own value.

When an In-
surance is made,
it must be for
the whole Time
remaining of the
Drawing; and
the Ticket must
be deposited with
the Re-
ceiver-General
of the Stamp
Duties, or some
Person appoint-
ed by him to
receive it.
Tickets and Insurances assignable.

Persons not
duly licensed
making Insur-
ances, liable to
the Penalties of
keeping unli-
censed Lottery
Offices.

county riding division or place where the said offence was committed; and the justices at such sessions shall enter upon the examination of the case and proceed therein according to the directions of the said recited Act of the seventeenth year of his said late Majesty; and all justices of the peace mayors bailiffs constables headboroughs and other his Majesty's civil officers within their respective jurisdictions are hereby empowered and strictly required to use their utmost endeavours to prevent the committing of any of the offences aforesaid by all lawful ways and means; and shall be and are hereby indemnified for any thing done in execution of this Act.

III. And be it further enacted by the authority aforesaid, That all other the powers authorities rules directions punishments and provisions prescribed and inflicted in and by the said recited Act of the seventeenth year of his said late Majesty for the apprehending securing and punishing persons as rogues and vagabonds within the true intent and meaning of the said Act not hereby altered, shall be applied and carried into execution in relation to the persons hereby declared to be rogues and vagabonds, as fully to all intents and purposes as if the same powers authorities rules directions punishments and provisions and every of them had severally and respectively been re-enacted in this Act.

IV. Provided always and be it further enacted by the authority aforesaid, That from and after the day on which this Act shall receive his Majesty's royal assent it shall and may be lawful for any person actually possessed of any whole undrawn ticket in any lottery now established or hereafter to be established by law in *Great Britain* to make or cause to be made on his or her ticket any insurance for the indemnifying himself or herself against any loss which he or she may sustain by adventuring in the said lottery for or by reason of such ticket, so as every contract or agreement for such insurance be reduced into writing (without being subject to any of the duties under the management of the commissioners of stamps) before the time of such ticket being drawn in the said lottery; and so as the name of the possessor of such ticket at the time of such insurance, the number thereof, the lottery to which such ticket shall belong and the amount of the premiums received thereon be respectively inserted and expressed in such agreement, and so as every such insurance be made upon a whole ticket or whole tickets only on condition to pay the full amount or value thereof, and not otherwise; any thing contained in this Act or in the said Act of the twenty-second year of the reign of his present Majesty, "For licensing Lottery-office Keepers and regulating the Sale of Lottery Tickets," to the contrary notwithstanding.

V. Provided always, That no such insurance shall be for a less time than shall then remain of the drawing of the said lottery; and that every such ticket so insured shall be deposited by the person so insuring the same in an office established or to be established by the commissioners for managing the duties upon stamped vellum parchment and paper for the time being, for the deposit of tickets intended to be sold in shares by virtue of an Act passed in the twenty-second year of his present Majesty's reign, intituled "An Act for licensing Lottery-office Keepers and regulating the Sale of Lottery Tickets," and shall be there left with the Receiver General of his Majesty's Stamp Duties or some person or persons to be appointed by him to receive the same, and who is and are hereby authorised and required to receive the same: Provided also, That every such ticket so deposited may be assignable, together with such insurance.

VI. Provided always and be it further enacted by the authority aforesaid, That if any person or persons whatsoever, not being duly licensed under the said Act of the twenty-second year of his present Majesty's reign, shall from and after the day on which this Act shall receive his Majesty's royal assent, grant sign or underwrite any agreement for any such insurance as aforesaid; or shall take or receive any premium or consideration in the nature of a premium for such insurance, every such person or persons not duly licensed as aforesaid shall be subject to the

like pains penalties and forfeitures as are inflicted on persons keeping lottery offices without the authority of such licence by the said Act of the twenty-second year of his present Majesty's reign or by this Act, to be levied and recovered inflicted applied and carried into execution as in and by this Act is directed and according to the true intent and meaning thereof.

No. XV.
27 Geo. III.
c. 1.

VII. Provided always and be it further enacted by the authority aforesaid, That no person shall be liable to be prosecuted for any offence against this Act or such parts of the herein-before mentioned Acts or any of them as touch and concern lotteries by both the ways by this Act prescribed; nor shall any person against whom any action suit or information for the recovery of a pecuniary penalty hath been commenced and carried on with effect be liable to imprisonment as a rogue and vagabond under this Act for the same offence; and that where any person shall be convicted and sentenced to imprisonment as a rogue and vagabond under this Act, such person shall not be liable afterwards to be prosecuted for any pecuniary penalty for the same offence.

Offenders not to be liable to Prosecutions for pecuniary Penalties, and also as Vagabonds.

VIII. Provided also and be it further enacted by the authority aforesaid, That no person or persons shall be subject or liable to any prosecution before any justice or justices of the peace for any offence against the herein-before mentioned Acts, touching and concerning any lottery now established or heretofore established in this kingdom, unless information thereof shall have been made on or before the fifth day of *February* one thousand seven hundred and eighty-seven.

Nor before a Justice for Offences respecting Lotteries already established, unless Information has been made before Feb. 5, 1787.

IX. And be it further enacted, That all such penalties and forfeitures and shares of penalties and forfeitures and sums of money which shall belong to his Majesty his heirs and successors and which shall be received by any officer or officers in the execution of this Act shall be paid into the hands of the Receiver General of the Stamp Office for the time being, who shall keep a separate and distinct account thereof, and thereout shall pay the expence the said office shall be put to in executing this Act; and the said Receiver General shall pay the residue into the receipt of the Exchequer at such time and in such manner as other penalties and forfeitures due and payable to his Majesty are or shall be paid or payable.

His Majesty's Share of Penalties to be paid to the Receivers General of the Stamp Office.

X. And be it further enacted by the authority aforesaid, That if any person or persons shall at any time or times be sued molested or prosecuted for any thing by him her or them done or executed in pursuance of this Act or of any clause matter or thing herein contained, such person or persons may plead the general issue and give the special matter in evidence for his her or their defence; and if upon the trial a verdict shall pass for the defendant or defendants or the plaintiff or plaintiffs shall become nonsuited, then such defendant or defendants shall have treble costs awarded to him her or them against such plaintiff or plaintiffs.

General Issue.

Treble Costs.

[No. XVI.] 34 George III. c. 40.—An Act for granting to his Majesty a certain Sum of Money to be raised by a Lottery.—[9th May 1794.]

2.

XXXVII. AND be it further enacted, That upon complaint or information made upon oath before any justice or justices of the peace of any offence committed against the said Act of the twenty-seventh year of the reign of his present Majesty in any house or place within the jurisdiction of any such justice or justices, whereby any of the offenders may be liable to punishment as rogues and vagabonds, it shall and may be lawful to and for the said justice or justices before whom such oath shall be taken if he or they shall judge it reasonable, by special warrant under his or their respective hands and seals to authorise and empower any person or persons by day or by night (but if in the night-time, then in the presence of a constable or other lawful officer of the peace who are hereby required to be aiding and assisting therein) to break open the doors or any part of such house or place where such offence shall have

34 George III. c. 40.
On Complaint on Oath of Offences against 27 Geo. III. c. 1. whereby the Parties may be liable to punishment as Rogues, Justices may authorize Persons to break open Houses, &c.

No. XVI.
34 Geo. III.
c. 40.

Persons discovered in such Houses concerned in carrying on illegal Transactions, to be punished as Rogues, and may be arrested, &c.

Penalty on Persons obstructing Officers, &c.

Offenders adjudged Rogues and Vagabonds may be committed.

Proceedings not removable by Certiorari.

been committed, and to enter into such house or place and to seize and apprehend all such offenders and all other persons who shall be discovered in such house or place and who shall have knowingly aided or assisted or been any ways concerned with any such offender or offenders in committing such offence, and to convey them before any justice or justices of the peace of the county riding division city liberty or place wherein such person shall be so apprehended, to be dealt with according to law as aforesaid; and all persons who shall be discovered in such house or place knowingly aiding assisting or any ways concerned with such offender or offenders in carrying on any transactions respecting the said lotteries or either of them, contrary to the express provisions of the said Act of the twenty-seventh year aforesaid, shall be deemed rogues and vagabonds and punishable in like manner as is directed by the said Act or this Act as the case may require; and it shall and may be lawful for the officer or officers having the execution of such warrant and all other persons acting in his or their aid or assistance to stop arrest and detain all and every the person and persons so discovered in such house or place and to convey the said person or persons before such justice or justices of the peace as aforesaid; and if any person or persons shall forcibly obstruct oppose molest or hinder any such officer or officers or others acting in his or their aid or assistance in the due execution of their duty or in the due entering into such house or place, or in the seizing detaining or conveying before such justice or justices any such offenders or other persons as aforesaid, every such person so obstructing opposing molesting or hindering as aforesaid shall be deemed an offender against law and the public peace, and the court before whom any such offender shall be tried and convicted shall and may order such offender to be fined imprisoned and publicly whipped as in their discretion shall be thought fit; and all persons although not discovered in such house or place as aforesaid who shall employ or cause to be employed any person or persons in carrying on any of the transactions aforesaid or in aiding or assisting any such person or persons shall be deemed rogues and vagabonds and shall be punishable in like manner as is directed by the said Act of the twenty-seventh year aforesaid.

XL. And be it further enacted, That if any person shall be brought before any two or more justices of the peace and shall be convicted of any offence or offences against the said Act of the twenty-seventh year of the reign of his present Majesty or of this Act, whereby such person shall be adjudged a rogue and a vagabond, it shall and may be lawful for such justices to order such offender to be sent to the house of correction, there to remain for any space of time not exceeding six calendar months nor less than one month and until the final period of the drawing of the lottery in respect whereof such offence shall be committed; and such proceedings shall not be subject to appeal nor shall be removed or removable by *certiorari* or otherwise into any court whatever.

[No. XVII.] 42 George III. c. 119.—An Act to suppress certain Games and Lotteries not authorized by law.—[28th June 1802.]

42 George III.
c. 119.
All Games or Lotteries called Little Goes declared public Nuisances.

‘WHEREAS evil-disposed persons do frequently resort to publick houses and other places to set up certain mischievous games or lotteries called little goes, and to induce servants children and unwary persons to play at the said games; and thereby most fraudulently obtain great sums of money from servants children and unwary persons to the great impoverishment and utter ruin of many families;’ For remedy whereof be it enacted by the King’s most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That all such games or lotteries called little goes shall from and after the passing of this Act be deemed and are hereby declared common and publick nuisances and against law.

II. And be it further enacted, That from and after the first day of July one thousand eight hundred and two no person or persons whatsoever shall publicly or privately keep any office or place to exercise keep open show or expose to be played drawn or thrown at or in either by dice lots cards balls or by numbers or figures or by any other way contrivance or device whatsoever any game or lottery called a little goe or any other lottery whatsoever not authorised by Parliament, or shall knowingly suffer to be exercised kept open shewn or exposed to be played drawn or thrown at or in either by dice lots cards balls or by numbers or figures or by any other way contrivance or device whatsoever any such game or lottery in his or her house room or place upon pain of forfeiting for every such offence the sum of five hundred pounds, to be recovered in the court of Exchequer at the suit of his Majesty's Attorney General and to be to the use of his Majesty his heirs and successors; and every person so offending shall be deemed a rogue and vagabond within the true intent and meaning of an Act passed in the seventeenth year of the reign of his late Majesty King George the Second, intituled "An Act to amend and make more effectual the Laws relating to Rogues Vagabonds and other idle and disorderly persons and to Houses of Correction," and shall be punishable as such rogue and vagabond accordingly.

III. Provided always and be it further enacted, That every person so offending against this Act in manner herein-before mentioned, against whom no information shall have been made as aforesaid, shall be deemed a rogue and vagabond within the true intent and meaning of an Act passed in the seventeenth year of the reign of his late Majesty King George the Second, intituled "An Act to amend and make more effectual the Laws relating to Rogues Vagabonds and other idle and disorderly Persons and to Houses of Correction;" and also of another Act passed in the twenty-seventh year of the reign of his present Majesty, intituled "An Act to render more effectual the Laws now in being for suppressing unlawful Lotteries;" and shall be punishable as such rogue and vagabond according to the said Acts and this Act.

IV. And be it further enacted, That upon complaint or information made upon oath before any justice or justices of the peace of any offence committed against this Act in any house or place within the jurisdiction of any such justice or justices, whereby any of the offenders may be liable to punishment as rogues and vagabonds, it shall and may be lawful to and for the said justice or justices before whom such oath shall be taken if he or they shall judge it reasonable by special warrant under his or their respective hands and seals to authorise and empower any person or persons by day or by night (but if in the night-time then in the presence of a constable or other lawful officer of the peace who are hereby required to be aiding or assisting therein) to break open the doors or any part of such house or place where such offence shall have been committed, and to enter into such house or place and to seize and apprehend all such offenders and all other persons who shall be discovered in such house or place and who shall have knowingly aided or assisted or been any ways concerned with any such offender or offenders in committing such offence, and to convey them before any justice or justices of the peace of the county riding division city liberty or place wherein such persons shall be so apprehended to be dealt with according to law as aforesaid; and all such persons who shall be discovered in such house or place knowingly aiding assisting or anyways concerned with such offender or offenders in the carrying on any transactions respecting the said little goes or lotteries or either of them shall be deemed rogues and vagabonds and punishable in like manner as is directed by the said recited Act of the seventeenth year of the reign of his late Majesty King George the Second; and it shall and may be lawful for the officer or officers having the execution of such warrant and all other persons acting in his or their aid or assistance to stop arrest and detain all and every the person and persons so discovered in such house or place, and to convey the said person and persons before such justice or justices of the peace as aforesaid; and if any person or

No. XVII.
42 Geo. III.
c. 119.

Persons keeping any Office or Place for any Game or Lottery not authorised by Law, &c. shall forfeit 500*l*. and be deemed Rogues and Vagabonds within the Meaning of 17 Geo. 2. c. 52

Offenders not proceeded against for Penalties shall be punishable as Rogues and Vagabonds under 17 Geo. 2. c. 5. and 27 Geo. 3. c. 1. [And see post. § 7.]

Justice on Information may authorize Persons to break open Doors of Places (if at Night, with a Peace Officer) where such Offences are committed, and apprehend Offenders, &c.

Penalty for obstructing Persons in the Execution of their Duty, Fine and Imprisonment, &c.

Nc. XVII.
42 Geo. III.
c. 119.

Persons employing others shall be deemed Rogues and Vagabonds.

No Person shall agree to pay Money or deliver Goods, &c. on any Event relative to such Game or Lottery, or publish any Proposal; Penalty 100*l*.

Offenders may be apprehended on the Spot by any one and carried before a Justice, who shall, on the Penalty not being paid, commit them for six Months, or till Payment, without Appeal.

Application of the Penalty.

The Provisions of 27 Geo. 3. c. 1. shall extend to this Act, and the Lottery Act, c. 54. of this Session.

persons shall forcibly obstruct oppose molest or hinder any such officer or officers or others acting in his or their aid or assistance in the due execution of their duty or in the due entering into such house or place or in the seizing detaining or conveying before such justice or justices any such offenders or other persons as aforesaid, every such person so obstructing opposing molesting or hindering as aforesaid shall be deemed an offender against law and the publick peace, and the court before whom any such offender shall be tried and convicted shall and may order such offender to be fined imprisoned and publicly whipped as in their discretion shall be thought fit; and all persons although not discovered in such house or place as aforesaid who shall employ or cause to be employed any person or persons in carrying on any of the transactions aforesaid or in aiding or assisting any such person or persons, shall be deemed rogues and vagabonds and shall be punishable in like manner as is directed by an Act passed in the twenty-seventh year of the reign of his present Majesty.

V. And be it further enacted, That from and after the passing of this Act no person or persons whatever shall on or under any pretence device form denomination or description whatsoever promise or agree to pay any sum or sums or to deliver any goods or to do or forbear doing any thing for the benefit of any person or persons, whether with or without consideration, on any event or contingency relative or applicable to the drawing of any ticket or tickets lot or lots numbers or figures in any such game or lottery or to publish any proposal for any of the purposes aforesaid; and if any person or persons shall offend in any of the matters aforesaid, he she or they shall for every offence forfeit and pay the sum of one hundred pounds.

VI. And be it further enacted, That it shall and may be lawful for any person whatever to apprehend on the spot any person or persons so offending and to convey or cause to be conveyed before any magistrate or justice of the peace residing near the place where such offence shall be committed, the person or persons so apprehended to be proceeded against under this Act; and when any person or persons shall be apprehended or brought before any magistrate or justice aforesaid for any such offence, it shall be lawful for such magistrate or justice to proceed to examine into the circumstances of the case, and upon due proof or upon oath or solemn affirmation of any such offence committed against this Act to give judgment or sentence accordingly; and where the party accused shall be convicted of such offence and such penalty shall not be immediately paid, to commit such offender to prison for any space of time not exceeding six calendar months nor less than one calendar month without bail or mainprize and without appeal or until such penalty shall be satisfied; and every such penalty when paid upon conviction shall go and be applied, one third thereof to his Majesty, one third thereof to the use of the informer or informers, and the other third thereof to the person or persons apprehending or securing such offender or offenders. (1.)

VII. And be it further enacted, That from and after the passing of this Act all pains forfeitures fines and penalties and all provisions powers authorities rules regulations restrictions exemptions and exceptions clauses matters and things contained in an Act passed in the twenty-seventh year of the reign of his present Majesty, intituled "An Act to render more effectual the Laws now in being for suppressing unlawful Lotteries," shall extend and be deemed construed and taken to extend and shall apply and be in full force and put in execution in all cases and for all purposes as to all the provisions of this Act, and of another Act passed in this session of Parliament, intituled "An Act for granting to his Majesty a certain Sum of Money to be raised by Lotteries," in all

(1.) This Section, it will be observed, directs the Penalty to be distributed, one-third to the King, one-third to the Informer, and one-third to the person apprehending or securing the Offender; a Conviction directing the Penalty to be

distributed as the Law directs, without ascertaining to whom the last third is to be paid (the person being uncertain) is bad, *Rex. v. Seal*, 8 E. R. 568.

cases where no special or different provision is made by this or the said last recited Act in as full and ample a manner to all intents and purposes as if the said Act and all pains forfeitures fines and penalties provisions powers authorities rules regulations restrictions exemptions exceptions clauses matters and things contained and enacted therein were particularly and expressly repeated and re-enacted in the body of this present Act and had been repeated and enacted in the body of the said recited Act of this session of Parliament.

VIII. And be it further enacted, That if any sheriff's officer or other person or persons shall be sued molested or prosecuted for any thing done by virtue or in pursuance of this Act, such sheriff's officer or other person or persons shall and may plead the general issue and give this Act and the special matter in evidence in his her or their defence or defences; and if afterwards a verdict shall pass for the defendant or defendants, or the plaintiff or plaintiffs shall discontinue his her or their action or prosecution or be non-suited, or judgment shall be given against him her or them upon demurrer or otherwise, then such defendant or defendants shall have treble costs awarded to him her or them against any such plaintiff or plaintiffs.

No. XVII.

42 Geo. III.

c. 119.

General Issue.

Treble Costs.

PART VI.

CLASS XXI.

Gaols and Houses of Correction.

[No. I.] 4 Edward III. c. 10.—Sheriffs and Gaolers shall receive Offenders without taking any Thing.

[No. II.] 14 Edward III. St. 1. c. 10.—Sheriffs shall have the keeping of Gaols. A Prisoner by Duress becometh an Approver.

[No. III.] 5 Henry IV. c. 10.—Justices of Peace shall imprison none but in the common Gaol.

[No. IV.] 3 Henry VII. c. 3.—Justices of Peace may let Prisoners to Bail. The Sheriff shall certify the Names of all his Prisoners at the Gaol Delivery.

[Inserted Part V. title *Proceedings in Criminal Cases.*]

2.

[No. V.] 19 Henry VII. c. 10.—Sheriffs.

19 Henry VII.
c. 10.

The Sheriffs shall have the keeping of the common Gaols, and the Prisoners therein.

14 Ed. 3. st. 1.
c. 10.

BE it ordained established and enacted by the King our Sovereign Lord, by the advice and assent of his Lords Spiritual and Temporal and the Commons in this present Parliament assembled, and by authority of the same, That every sheriff within every county within this realm of England have the custody rule keeping and charge from the *Quindecim Pasche* next coming of every of the King's common gaols prisons and prisoners in the same in every of the said counties where he is sheriff during the time of his office, except all gaols whereof any person or persons spiritual or temporal or body corporate have the keeping of estate of inheritance or by succession; (2) and from the same *Quindecim of Pasche* next coming, that all letters patent made to any person or persons for term of life or lives or for term of years of the keeping of the said gaols and of any constableness of any castle wherein any such common gaol is, by the King our Sovereign Lord or any other Kings of this land and every thing in the said letters patent contained be from henceforth repealed annulled void and of no force ne effect in the law: (3) And that every such sheriff from the said *Quindecim of Pasche* be charged and chargeable with the said gaols prisons and the prisoners remaining in the same.

[Several Penalties for the negligent Escape of several Sorts of Offenders. Exp.—A Saving of other Men's Rights for Escapes, and Fines for the same.—The Penalty for negligent Escapes before the Prisoner be brought to the Gaol. Exp.—Letters Patent of Offices not requiring actual Exercise shall be void.—The Continuance of this Act concerning Penalties.—The Sheriff of Surrey shall not have the keeping of the King's Bench and Marshalsea.—Edward Courtney Earl of Devonshire's Patent except. John Morgan's Patent except.]

[No. VI.] 3 James I. c. 10.—An Act for the rating and levying of the Charges for conveying Malefactors and Offenders to Gaols.

2.

‘ WHEREAS his Majesty’s honest and loving subjects are much charged and burthened in conveying felons and other malefactors and offenders against his Majesty’s laws and statutes unto the gaol, punishable by imprisonment there, the said felons and other malefactors and offenders having goods and chattels of their own whereby to defray the same charges themselves to the great encouragement of such malefactors and offenders in their said wicked and bad courses and to the discouragement of his Majesty’s said honest and loving subjects in prosecuting the said malefactors and offenders to be punished according to their demerits:’ Be it enacted by the King’s most excellent Majesty, the Lords Spiritual and Temporal, and the Commons, in this present Parliament assembled, and by authority of the same, That all and every person and persons whatsoever that from and after the end of this present session of Parliament shall be committed to the common or usual gaol within any county or liberty within this realm by any justice or justices of the peace for any offence or misdemeanour to any such gaol, that the said person or persons so to be committed as aforesaid having means or ability thereunto shall bear their own reasonable charges for so conveying or sending them to the said gaol and the charges also of such as shall be appointed to guard them to such gaol and shall so guard them thither: And if any such person or persons so to be committed as aforesaid shall refuse at the time of their commitment and sending to the said gaol to defray the said charges or shall not then pay or bear the same, that then such justice or justices of the peace shall and may by writing under his or their hand and seal or hands and seals give warrant to the constable or constables of the hundred, or constable or tithingman of the tithing or township where such person or persons shall be dwelling and inhabit, or from whence he or they shall be committed as aforesaid, or where he or they shall have any goods within the county or liberty, to sell such and so much of the goods and chattels of the said persons so to be committed as by the discretion of the said justice or justices of the peace shall satisfy and pay the charges of such his or their conveying and sending to the said gaol, the appraisement to be made by four of the honest inhabitants of the parish or tithing where such goods or chattels shall remain and be, and the overplus of the money which shall be made thereof to be delivered to the party to whom the said goods shall belong.

3 James I. c. 10.
At whose
Charge an Of-
fender shall be
conveyed to
Gaol.

How the
Charges shall
be levied if the
Prisoner shall
refuse to pay
them.

[II. If the Offender be not able to bear his Charges, the Parishioners shall do it.—The Remedy if any Person taxed refuse to pay.—Repealed 27 Geo. III. c. 3. VI. ante title *County Rates*.]

III. And be it enacted by the authority of this present Parliament, That if any action of trespass or other suit shall happen to be attempted or brought against the person or persons for taking of any distress, making of any sale or any other act by authority of this present Act, the defendant or defendants in any such action or suit shall and may either plead not guilty or otherwise make avowry cognizance or justification for the taking of the said distresses, making of sale or other act by virtue of this Act, (2) alleging in such avowry cognizance or justification that the said distress, sale, trespass, or other thing whereof the plaintiff or plaintiffs complained was done by authority of this Act and according to the tenor purport and effect of this Act, without any expressing or rehearsal of any other matter of circumstance contained in this present Act: (3) to which avowry cognizance or justification the plaintiff shall be admitted to reply, that the defendant did take the said distress made the said sale or did any other act or trespass supposed in his declaration of his own wrong, without any such cause alleged by the said defendant; whereupon the issue in every such action shall be joined to be tried by verdict of twelve men and not otherwise, accustomed in other personal actions; (4) and upon the trial of that issue the whole matter to be given on both parties in evi-

The Defend-
ant’s Plea in an
Action brought
for any Thing
done by force
of this Act.

No. VIII.

6 Geo. I.
c. 19.

The Defendant
shall recover
Treble Da-
mages and Costs
of Suits.

dence according to the very truth of the same; (5) and after such issue tried for the defendant or nonsuit of the plaintiff after appearance, the said defendant to recover treble damages by reason of his wrongful vexation in that behalf with costs also on that part sustained, and that to be assessed by the same jury or writ to inquire of the damages as the same shall require: (6) This Act to continue until the end of the first session of the next Parliament. [3 Car. 1. c. 4. Continued until the end of the first session of the next Parliament and further continued by 16 Car. 1. c. 4.]

[No. VII.] 31 Charles II. c. 2.—An Act for the better securing the Liberty of the Subject, and for Prevention of Imprisonment beyond the Seas.

[Inserted Part IV. title *Arrest and Imprisonment.*]

[No. VIII.] 6 George I. c. 19.—An Act for making perpetual so much of an Act made in the Tenth Year of the Reign of Queen *Anne*, for the reviving and continuing several Acts therein mentioned, as relates to the building and repairing County Gaols; and also an Act of the Eleventh and Twelfth Years of the Reign of King *William* the Third, for the more effectual suppression of Piracy; and for making more effectual the Act of the Thirteenth Year of the Reign of King *Charles* the Second, intituled, “An Act for establishing Articles and Orders for the regulating and better Government of his Majesty’s Ships of War and Forces by Sea.”

6 Geo. I. c. 19.
10 Ann. c. 14.
§ 2.

So much of the
recited Act as
relates to
County Gaols
made perpetual.

‘WHEREAS in an Act made in the tenth year of the reign of Queen *Anne*, intituled “An Act for the reviving and continuing several Acts therein mentioned for the preventing of mischiefs which may happen by fire; for building and repairing County Gaols; for exempting of Apothecaries from serving Parish and Ward Offices and serving upon Juries; and relating to the returning of Jurors;” there is a clause relating to the building and repairing county gaols which by experience has been found very useful and beneficial to the publick and will expire at the end of this present session of Parliament:’ Be it therefore enacted by the King’s most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That so much of the said Act made in the tenth year of the reign of Queen *Anne* as relates to the building and repairing county gaols shall be and is hereby made perpetual.

39 Ed. c. 17.
7 Jac. I. c. 4.
Justices of Peace
may commit
Vagrants, &c.,
to the Common
Gaol or House
of Correction.
See farther,
14 Geo. 2.
c. 33. and 3 Bur.
1679.
The Act of
11 & 12
Will. III. c. 7.
made perpetual.

II. ‘And whereas vagrants and other criminal offenders and persons charged with small offences are for such offences or for want of sureties to be committed to the county gaol, it being adjudged that by law the justices of the peace cannot commit them to any other prison for safe custody which by experience hath been found to be very prejudicial and expensive:’ Be it enacted by the authority aforesaid, That it shall and may be lawful to and for the justices of the peace within their respective jurisdictions to commit such vagrants and other criminals offenders person and persons either to the common gaol or house of correction as they in their judgment shall think proper; any law custom or usage to the contrary notwithstanding.

III. And be it further enacted by the authority aforesaid, That the Act made in the eleventh and twelfth years of the reign of his late Majesty King *William* the Third, intituled “An Act for the more effectual Suppression of Piracy,” shall be and is hereby made perpetual.

"Persons in the sea-service who shall commit any of the crimes mentioned in 13 Car. 2 stat. 1. c. 9. upon the shore in foreign parts shall be tried and punished as if they had been committed on the main sea." Req. 22 Geo. 2 c. 33.

No. XI,

14 Geo. III.
c. 20.

[No. IX.] 14 George II. c. 33.—An Act to supply some Defects in the Laws for repairing and rebuilding County Bridges, for repairing, enlarging, erecting, and providing Houses of Correction, and for passing Rogues and Vagabonds.

[Inserted ante Class VI. No. 3.]

[No. X.] 15 George II. c. 24.—An Act to empower the Justices of the Peace of a Liberty or Corporation, to commit Offenders to the House of Correction of the County Riding or Division in which such Liberty or Corporation is situate.

WHEREAS doubts and questions have arisen touching the commitment of offenders by justices of the peace of liberties and corporations to the houses of correction of counties ridings or divisions in which such liberties and corporations are situate, though the inhabitants of such liberties and corporations contribute to the maintenance and support of such houses of correction; be it therefore declared and enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That in all cases where any person liable by law to be committed to the house of correction shall be apprehended within any liberty city or town corporate whose inhabitants are contributory to the support and maintenance of the house or houses of correction of the county riding or division in which such liberty city or town corporate is situate: it shall and may be lawful for the justices of the peace of such liberty city or town corporate to commit such person to the house of correction of the county riding or division in which such liberty city or town corporate is situate; which person so committed shall and may be received, detained, dealt with, and ordered, and be set and kept to hard labour, or conveyed and sent away or discharged and be subject and liable to the same correction and punishment to all intents and purposes as if committed by any justice or justices of the peace of the same county riding or division. (1.)

15 George II.
c. 24.

9 Geo. I. c. 7.

Justices of a
Liberty or Cor-
poration may
commit Offend-
ers to the House
of Correction of
the County, &c.

(1.) This Act is a declaratory Act, and should have a liberal construction, and therefore where Justices of a Borough contributory to the County Rate, have committed Prisoners to the County House of Correction for Offences cognizable within the County, the Justices at their Borough Sessions have a right to order such Prisoners to

be brought before them for trial there. Quære, also, where a County Magistrate having concurrent jurisdiction, has committed a Prisoner for an Offence within the Borough, whether the Borough Sessions have not the same power of ordering such Prisoner to be brought before them for trial? *Rex v. Amos*, 2 B. and A. 533.

[No. XI.] 14 George III. c. 20.—An Act for the relief of Prisoners charged with Felony, or other Crimes, who shall be acquitted or discharged by Proclamation, respecting the Payment of Fees to Gaolers, and giving a Recompence for such Fees, out of the County Rates.*

WHEREAS persons in custody for felonies or other crimes or on suspicion thereof or as accessaries thereto, though no bills of indict-

14 George III.
c. 20.

* See Stat. 55 George III. c. 50. post. No. 28.

No. XII.
24 Geo. III.
sess. 2. c. 56.

Prisoners
charged with
Crimes in Eng-
land for want of
Prosecutions to
be set at large.

Fees abolished.

Treasurers of
Counties, &c.,
as are not as-
sessed at large,
&c., shall pay
to such Gaolers
not exceeding
13s. 4d.

'ment are afterwards preferred or found against them or they are ac-
'quitted on their trials, are nevertheless frequently detained for certain
'fees to the sheriffs gaolers or keepers of prisons in whose custody they
'happen to be, which is both oppressive and unjust ;' For remedy whereof,
may it please your Majesty that it may be enacted, and be it enacted by
the King's most excellent Majesty, by and with the advice and consent
of the Lords Spiritual and Temporal, and Commons, in this present Par-
liament assembled, and by the authority of the same, That every pris-
oner who now is or hereafter shall be charged with any felony or other
crime or as an accessory thereto before any court holding criminal juris-
diction within that part of *Great Britain* called *England* and *Wales*,
against whom no bill of indictment shall be found by the grand jury or
who on his or her trial shall be acquitted or who shall be discharged by
proclamation for want of prosecution, shall be immediately set at large in
open court without the payment of any fee or sum of money to the sheriff
gaoler or keeper of the gaol or prison from whence he or she shall be so
discharged and set at liberty for or in respect of such discharge.

II. And be it further enacted by the authority aforesaid, That all such
fees as have been usually paid or payable to the several sheriffs gaolers
and keepers of prisons in *England* and *Wales* in any of the cases aforesaid
shall absolutely cease, and the same are hereby abolished and determined ;
and from and after the passing of this Act no gaoler or keeper of any
gaol or prison shall ask, demand, take, or receive any sum or sums of
money from any of the said prisoners as fees for upon or in respect of his
or her discharge.

III. And be it further enacted by the authority aforesaid, That in lieu
of such fees so abolished as aforesaid, the treasurers or other proper offi-
cers of the several counties or of such districts, hundreds, ridings, or divi-
sions of a county as are not usually assessed to the county at large, and
of such cities, towns corporate, cinque ports, liberties, franchises, and places
as do not pay to the rates of the several counties in which they are respec-
tively situated, shall on receiving a certificate signed by one or more judge
or justice before whom such prisoner shall have been discharged as afore-
said (which certificate the judge or justice is hereby required to give), pay
out of the rates of such county or of such district, hundred, riding, or
division or out of the public stock of such city, town corporate, cinque
port, liberty, franchise, or place, such sum as has been usually paid upon
that occasion, not exceeding thirteen shillings and fourpence for every
prisoner so discharged as aforesaid to the sheriff gaoler or keeper of the
prison whence the said prisoner shall have been discharged as aforesaid :
which several sums so paid in pursuance of this Act shall be respectively
allowed to the said treasurers and officers by the justices before whom
their accounts shall be passed.

2. [No. XII.] 24 George III. Sess. 2. c. 56.—An Act for the
effectual Transportation of Felons and other Offenders ;
and to authorize the Removal of Prisoners in certain Cases ;
and for other Purposes therein mentioned.

24 Geo. III.
sess. 2. c. 56.

Justice of Assize
may remove
Prisoners com-
mitted by Jus-
tices of the
Peace.

XII. ' AND whereas there are several persons confined in county and
city gaols in *England* and *Wales* under sentences and orders
'made by one or more justice or justices of peace at their sessions or
'otherwise upon convictions in a summary way without the intervention
'of a jury ;' Be it further enacted, That it shall be lawful for any justice
of assize or great sessions, or any two or more justices of the peace within
whose jurisdiction such gaol is situate, to remove any such person or per-
sons to any house of correction within the said jurisdiction, there to be
confined and to remain in execution of such sentence or order.

[No. XIII. a.] 27 George III. c. 11.—An Act to explain and amend so much of an Act, made in the Sixth Year of the Reign of King George the First, intituled *An Act for making perpetual so much of an Act, made in the Tenth Year of the Reign of Queen Anne, for the reviving and continuing several Acts therein mentioned, as relates to the Building and Repairing County Gaols; and also an Act of the Eleventh and Twelfth Years of the Reign of King William the Third, for the more effectual Suppression of Piracy; and for making more effectual the Act of the Thirteenth Year of the Reign of King Charles the Second, intituled "An Act for establishing Articles and Orders for the regulating and better Government of his Majesty's Ships of War and Forces by Sea,"* as gives discretionary Power to Magistrates to commit Vagrants and other Criminals Offenders and Persons charged with small Offences, either to the Common Gaol or House of Correction.

No. XIV.
52 Geo. III.
c. 160.

WHEREAS doubts have arisen whether such of the provisions contained in an Act made in the sixth year of the reign of his late Majesty King George the First, intituled *An Act for making perpetual so much of an Act made in the tenth year of the reign of Queen Anne for the reviving and continuing several Acts therein mentioned as relates to the building and repairing county gaols; and also an Act of the eleventh and twelfth years of the reign of King William the Third, for the more effectual suppression of piracy; and for making more effectual the Act of the thirteenth year of the reign of King Charles the Second, intituled An Act for establishing Articles and Orders for the regulating and better Government of his Majesty's Ships of War and Forces by Sea,* as give a discretionary power to justices of the peace in their respective jurisdictions to commit vagrants and other criminals offenders and persons charged with small offences either to the common gaol or house of correction, extend to offences committed against the provisions contained in Acts of Parliament made since the passing of the said recited Act where such offenders are ordered to be committed to the common gaol: And whereas it may be proper to extend the provisions of the said Act; May it therefore please your Majesty that it may be enacted; and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That it shall be lawful for any justice or justices of the peace within his or their respective jurisdictions to commit either to the common gaol or to any house of correction within his or their respective jurisdictions, as to such justice or justices shall seem most proper, such vagrants and other criminals offenders and persons charged with or convicted of small offences as by any law now in force or hereafter to be made he or they is or are or shall be authorized to commit to the common gaol.

27 Geo. III.
c. 11.
Preamble.
6 Geo. I. c. 19.

Justices may
commit Vagrants, &c.,
to the House of
Correction.

[No. XIV.] 52 George III. c. 160.—An Act to enable Justices of the Peace to order Parochial Relief to Prisoners confined under Mesne Process for Debt in such Gaols as are not County Gaols.—[29th July 1812.]

WHEREAS great distress is suffered by poor persons confined under mesne process for debt in such gaols as are not county gaols in consequence of their not receiving any allowance whereon to subsist during the time of such confinement: May it therefore please your Majesty that it may be enacted; and be it enacted by the King's most

52 Geo. III.
c. 160.

No. XIV.
52 Geo. III.
c. 160.

Justice to order
Parochial Re-
lief to Debtors
in Gaols not
County Gaols.

Sum limited.

Legal Settle-
ment of Debtor
ascertained.

Order of Re-
moval suspend-
ed while Debtor
imprisoned.

Served on Over-
seers of the
Poor of Parish.

Overseers to -
repay Expence
attending Pau-
per.

In case of Re-
fusal, Money
advanced levied
by Distress.

Appeal.

excellent Majesty, by and with the advice and consent of the Lords Spi-ritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That it shall be lawful for any one justice of the peace acting for the county riding or division wherein any gaol (which is not a county gaol) is situated to order the overseers of the poor of the parish township or place wherein any such gaol (which is not a county gaol) shall be situated to relieve any poor person who shall be confined in such gaol under mesne process for debt, and who shall appear to such justice to be unable to support himself or herself and who shall have applied for relief to such overseers as aforesaid.

II. Provided always and be it further enacted, That the sum to be given for the relief of any such poor person shall not exceed six pence *per diem* during the time of his or her confinement in such gaol under mesne process for debt.

III. And be it further enacted, That the overseers of the poor of any such parish township or place to whom any such application for relief shall be made as aforesaid, if they shall doubt whether such poor person is legally settled in such parish township or place, shall cause him or her to be examined upon oath before one or more justice or justices of the peace touching his or her last legal settlement, upon which examination it shall be lawful for justices to make an order for the removal of such poor person to the place of his last legal settlement and to suspend the execution of such order of removal during the time of such person being confined in such gaol under such mesne process, which suspension of the same shall be indorsed on the said order and signed by such justices, and the subsequent permission to execute the same shall be also indorsed on the said order and signed by such justices or by any other two justices of the peace acting for the same county riding or division.

IV. Provided always and be it enacted, That a copy of the order of removal and of the order for suspending the execution of the same as aforesaid shall, as soon as may be after the making thereof respectively, be served upon the overseers of the poor of the parish township or place in which such poor person shall by such order of removal be adjudged to be legally settled.

V. And be it further enacted, That although such poor person shall not have been actually removed in pursuance of such order of removal as aforesaid, it shall be lawful for any justice of the peace to direct the overseers of the poor of the parish township or place in which such pauper is adjudged to be settled to repay to the overseers of the poor of the parish township or place wherein such gaol shall be situated all the charges proved upon oath of any such overseers of the parish township or place where the gaol is situated to have been incurred in granting relief to such pauper during the time of his confinement and the suspension of such order, not exceeding six pence *per diem*; and if the overseers of the parish township or place to which such order of removal shall be made or any or either of them shall refuse or neglect to pay any such sum so advanced as aforesaid within twenty-one days after demand thereof, and shall not within the same time give notice of appeal as herein-after mentioned, it shall be lawful for one justice of the peace by warrant under his hand and seal to cause the money so directed to be paid as aforesaid to be levied by distress and sale of the goods and chattels of the person or persons so refusing or neglecting to pay the same, and also such costs attending the same, not exceeding forty shillings, as such justice shall direct; and if the parish township or place to which the removal was ordered to be made be without the jurisdiction of the justice of peace issuing the warrant, then such warrant shall be transmitted to any justice of the peace having jurisdiction within such parish township or place as aforesaid, who upon receipt thereof is hereby authorized and required to indorse the same for execution: Provided nevertheless, that if the sum so ordered to be paid on account of such costs and charges exceed the sum of five pounds, the party or parties aggrieved by such order may appeal to the next general quarter sessions for the county riding or division in which such gaol is situated against the same as they may do

against an order for the removal of poor persons by any law now in being, and if the court of quarter sessions shall be of opinion that the sum so awarded be more than of right ought to have been directed to be paid, such court may and is hereby directed to strike out the sum contained in the said order and insert the sum which in the judgment of the said court ought to be paid, and in every such case the said court of quarter sessions shall direct that the said order so amended shall be carried into execution by the said justices by whom the order was originally made or either of them by such other justice or justices as the said court shall direct.

VI. Provided always and be it further enacted, That it shall be lawful for the overseers of the poor of the parish township or place wherein such poor person shall by such order of removal be adjudged to be legally settled to appeal against such order to the next general quarter sessions of the peace for the county riding or division in which such gaol is situated, holden after the service of the copy of such order of removal, in case such copy shall have been served upon such overseers twenty-one days before the holding of such quarter sessions, but in case the same shall not be served twenty-one days before the holding of such next general quarter sessions, then the appeal may be to the next succeeding general quarter sessions holden for the said county riding or division, and upon such appeal the like proceedings may be had as are observed in other cases of appeals against orders of removal of poor persons by any law now in being: Provided always, That in case such order of removal and suspension is not appealed against in manner aforesaid, or if upon appeal such order shall be confirmed, such poor person shall be deemed and taken to be legally settled in the parish township or place in which he shall by such order of removal be adjudged to be legally settled.

VII. And be it further enacted, That in case any poor person applying for relief under the provisions of this Act shall upon his examination as to his last legal settlement be found not to be legally settled in any parish township or place within *England and Wales*, it shall be lawful for any one justice of the peace to order the overseers of the poor of the parish township or place wherein the gaol is situated (in which such poor person shall be confined under mesne process for debt) to relieve such poor person with a sum not exceeding six pence *per diem* out of the funds in their hands applicable to the relief of the poor, which sum shall be reimbursed to the overseers of the poor of the said parish township or place for the use of such funds out of the county rate, by the treasurer of the county riding or division in which such parish township or place shall be situated at the expiration of the confinement of such poor person upon such mesne process as aforesaid.

No. XV.

55 Geo. III.
c. 50.

Appeal.

Proviso.

In case Pauper have no legal Settlement in England or Wales, Allowance paid out of County Rate.

[No. XV.] 55 George III. c. 50.—An Act for the Abolition of Gaol and other Fees connected with the Gaols in *England*.—[12th May 1815.]

WHEREAS it is expedient for the better government of gaols and bridewells in *England* that all fees and gratuities payable at the same for the entrance commitment or discharge of any prisoner should be abolished: Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That from and after the first day of *October* next all fees and gratuities paid or payable by any prisoner on the entrance commitment or discharge to or from prison shall absolutely cease, and the same are hereby abolished and determined.

II. And whereas in some places such fees and gratuities as aforesaid are payable to the gaoler or his servants and are to him or them as a salary; be it enacted, That it may be lawful for the justices of the peace for any county city or town assembled in general or quarter sessions to

55 George III.
c. 50.

All Fees and Gratuities payable at Gaols and Bridewells shall be abolished.

Quarter Sessions to make Allowances to Gaolers, &c.

No. XV.
55 Geo. III.
c. 50.

Allowances to
be paid out of
the County
Rates, &c.

Every Prisoner
charged with
Felony or Mis-
demeanor, and
acquitted, to be
discharged
without Pay-
ment of any
Fee, &c.

All Fees usu-
ally paid to
Clerks of the
Court, Assize,
&c., to be abo-
lished.

County Treas-
urers to pay
Allowances for
Places not usu-
ally assessed to
the County at
large.

make such allowances to the aforesaid gaoler or servants as may to them seem fit in the way of salary or compensation for the fees or gratuities payable by prisoners now abolished by this Act.

III. And be it enacted, That the said justices of the peace for any county city or town may direct the said allowances to be paid out of any county rate city rate or town rate now by law authorized to be made and levied.

IV. And whereas it is customary for clerks of the assize, clerks of the peace, clerks of the court, or their deputies or other officers in the courts of assize or session to demand and take from persons indicted divers sums in the way of fees; be it enacted, That every prisoner who now is or hereafter shall be charged with or indicted for any felony or as an accessory thereto, or with or for any misdemeanor before any court holding criminal jurisdiction within that part of the United Kingdom of *Great Britain and Ireland* called *England*, against whom no bill of indictment shall be found by the grand jury, or who on his her or their trial shall be acquitted or who shall be discharged by proclamation for want of prosecution, shall be immediately set at large without payment of any fee or sum of money for or in respect of his her or their discharge to any person or persons whomsoever; except only in such cases wherein the prisoner shall have been charged and shall then stand charged with any process authorizing the detention of such prisoner: Provided always, that if it shall happen that any prisoner who shall so stand charged with any process authorizing his detention as aforesaid shall have been discharged in supposed obedience to this Act by reason that the sheriff or other officer entitled to have detained him was at the time of such his discharge ignorant that there was any such charge against him, it shall in such case be lawful for such sheriff or other officer on receiving information of such charge presently to retake the prisoner so discharged as aforesaid, and thereupon forthwith to detain him in custody upon such charge in such manner as the said sheriff or other officer might have done if such prisoner had not been set at large; and that upon his being so retaken the said prisoner shall be deemed for the purpose of that suit to have been in custody continually from the time when he so first stood charged as aforesaid.

V. And be it enacted by the authority aforesaid, That all such fees as have been usually paid or payable to the several clerks of assize, and clerks of the peace, clerks of the court, or their deputies in that part of the United Kingdom of *Great Britain and Ireland* called *England*, in any of the cases aforesaid, shall absolutely cease and the same are hereby abolished and determined; and from and after the passing of this Act no clerk of assize, clerk of the peace, clerk of the court, or their deputies shall ask demand take or receive any sum or sums of money from any of the said prisoners as fees for or in respect of his her or their discharge.

VI. And be it enacted by the authority aforesaid, That in lieu and satisfaction of such lawful fees so abolished as aforesaid the treasurers or other proper officers of the several counties in *England*, or of such districts, hundreds, ridings, or divisions of a county as are not usually assessed to the county at large, and of such cities, towns, corporate, cinque ports, liberties, franchises, and places as do not pay to the rates of the several counties in which they are respectively situated, shall on receiving a certificate signed by one or more judge or justice of the peace before whom such prisoner shall have been discharged as aforesaid (which certificate the judge or justice is hereby required to give) pay out of the rates of such county or of such district, hundred, riding, or division, or out of the public stock of such city, town corporate, cinque port, liberty, franchise, or place, such lawful sum as has been usually paid upon that occasion for every prisoner discharged as aforesaid to such clerk of assize clerk of the peace or clerk of the court or their respective deputies; which several sums so paid in pursuance of this Act shall be respectively allowed to the said treasurer and officers by the justices before whom their accounts shall be passed.

VII. And be it enacted, That each and every clerk of the peace or his or their deputy or deputies and all and every officer who shall claim any fees or indemnification for the same by virtue of any of the provisions herein-before contained for and in respect of any such prisoners, shall deliver at each and every session of the peace or at some adjournment thereof an account of all fees so due to him or for which he shall claim any indemnification; which account shall be verified upon oath in court before the chairman of such sessions.

VIII. And be it further enacted, That the clerks of assize shall at each and every assize to be holden deliver in to the judge of the assize who shall sit for the trial of such prisoners an account of such fees as shall be due to him for and in respect of such prisoners; which account shall be verified upon oath before such judge to whom such account shall be delivered.

IX. And be it enacted, That from and after the passing of this Act any clerk of assize, clerk of the peace, clerk of the court, or their deputies or other officers exacting such fees shall be rendered incapable of holding his or their offices and be guilty of a misdemeanor.


X. And whereas it has been customary in some places for the sheriff or under sheriff to demand for the liberate granted to any debtor on his discharge a free gratuity: Be it enacted, That such liberate shall be granted to such debtor free of all expences; and that it shall be in the power of the justices of the peace for each county city or town assembled in quarter session, subject however to the approbation of the judges of assize, to make such compensation to the sheriff or under sheriff out of the county city or town rate as shall to them seem fit.

XI. And whereas there are several cities towns corporate and places within this kingdom which do not contribute to the payment of any county rate and have no town rate or public stock; and doubts may arise whether such cities towns corporate, and places can be legally rated and assessed towards the payment of the salaries allowances and compensations in lieu of such fees and gratuities; be it enacted, That in all such cases the salaries allowances and compensations in lieu of fees and gratuities herein-before directed to be made, shall be raised, levied, collected, and paid within such cities, town, corporate, and places, by a separate rate and assessment to be made by the churchwardens and overseers of the poor of the several parishes and precincts within such cities towns corporate and places, and by such and the like ways methods and means as the rates for the relief of the poor are can or may be raised levied and collected in such cities towns corporate and places.

XII. And whereas it may happen that the sums of money to be raised in the said cities town corporate and places or some or one of them, to answer and pay such salaries allowances and compensations herein-before directed to be made in lieu of fees and gratuities by this Act abolished, may be so small that it may not be convenient to make an equal separate rate and assessment for the same upon the said parishes and precincts within such cities towns corporate and places: Be it enacted, That in such last-mentioned case and when and as often as the same shall happen, the salaries allowances and compensations shall and may by order of the said judge or judges or justices in sessions assembled as aforesaid, be paid out of the monies from time to time raised for the relief of the poor in the said several cities towns corporate and places; and the treasurers or persons from time to time having the management of the said monies raised for the relief of the poor in the same cities towns corporate and places respectively are hereby authorized and required to pay the said sums of money so ordered to be paid by the said judge or judges or justices of the said last-mentioned monies when and as often as the same shall be so ordered: Provided always that the order for such allowances as may be made by the justices of the peace assembled in general or quarter sessions be approved by the judge or judges of assize on the first circuit ensuing after such warrant shall have been made out by the justices of peace assembled in general or quarter session for any county city or town, and that such order shall not be deemed or taken as a legal order

No. XV.

55 Geo. III.
c. 50.


Indemnification
for Fees to
Clerks of the
Peace.

Clerks of As-
sise to deliver
an Account of
Fees.

Punishment of
Officers for ex-
acting Fees in
future.

Liberates to
Debtors to be
granted free of
Expence, and
Compensation
made to Sheriffs
for the same.

How Allow-
ances shall be
raised for Places
which do not
contribute to
County Rates.

Allowances in
certain Places
to be paid out
of the Poor's
Rates.

No. XVI.

56 Geo. III.
c. 116.

*Punishment of
Gaolers for ex-
acting any Fee
or Gratuity
from Prisoners.*

*Not to extend to
certain Gaols.*

*Act may be al-
tered this Ses-
sion.*

without such warrant from the judge or judges of assize: Provided always that should there be more parishes than one in the same district the payments are to be made and levied in such rates and proportions as the respective parishes pay to the poor rate.

XIII. And be it enacted, That any gaoler who shall from and after the first day of October next exact from any prisoner any fee or gratuity for or on account of the entrance commitment or discharge of such prisoner, or who shall detain any prisoner in custody for non-payment of any fee or gratuity, shall be rendered incapable of holding his office, be guilty of a misdemeanor and be punished by fine and imprisonment.

XIV. Provided always and be it enacted, That nothing in this Act contained shall be construed to extend to the *King's Bench Prison* his Majesty's Prison of the *Fleet*, the *Marshalsea* and *Palace Courts*.

XV. Provided always and be it enacted, That this Act may be altered amended or repealed within this present session of Parliament.

[No. XVI.] 56 Geo. III. c. 116.—An Act to explain and amend an Act, passed in the Fifty-fifth Year of the Reign of his present Majesty, intituled *An Act for the Abolition of Gaol and other Fees connected with the Gaols in England*.—[1st July 1816.]

55 Geo. III.
c. 116.

*Judges of As-
sise may grant
Certificate to
certain Officers
to receive Com-
pensation for
abolished Fees;*

*to be paid in
same Manner
as is provided
by recited Act.*

*Recited Act to
extend to Pri-
soners for Debt.*

WHEREAS an Act passed in the fifty-fifth year of the reign of his present Majesty, intituled *An Act for the Abolition of Gaol and other Fees connected with the Gaols in England*: And whereas doubts have arisen whether the judges of assize have power under and by virtue of the said Act to grant to certain officers, who before the passing of the same were entitled to certain fees abolished by the said Act, a certificate for the purpose of enabling the said officers to receive compensation for such fees so abolished as aforesaid: And whereas it is expedient that such doubts should be removed; Be it therefore declared and enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That from and after the passing of this Act it shall and may be lawful for the judges of assize who have gone the several circuits since the passing of the said Act as well as future judges of assize respectively to grant such certificate as is required by the said Act; and the said judges of assize are hereby authorized and required to receive from every such officer, as previous to the passing of the said Act was lawfully entitled to any fees abolished by the said Act, an account in writing of what they severally claim to be due to them for such abolished fees, which account shall be verified upon the oath of the party claiming the same, in like manner as is provided by the said Act in respect to the clerks of assize and clerks of the peace.

II. And be it further enacted, That the amount of every such account after being verified as aforesaid shall be paid in the same manner as is provided in and by the said Act in respect to the clerks of assize and clerks of the peace.

III. And whereas doubts have arisen whether the said Act extends to prisoners confined in gaols and prisons under civil process for debt only, and whether prisoners confined in the gaols and prisons of liberties and franchises under civil process for debt and the gaolers and keepers of such gaols and prisons are within the meaning and purview of the said recited Act: And whereas it is expedient that such doubts should be removed: Be it therefore further declared and enacted, that the said recited Act and the provisions therein contained shall be deemed and construed to extend and shall extend to all prisoners as well civil as criminal whether confined for debt or crime in any of the prisons in *England* except as to the said prisons in the said Act excepted; and that the gaolers and keepers of all such gaols and prisons except as aforesaid and their servants, as well within liberties as without, shall have compen-

sation for their fees or gratuities abolished by the said recited Act or this Act as in the said recited Act is mentioned.

IV. And be it enacted, That the allowances made to the bodar or keeper of the prison of *Dover Castle* in lieu of fees and gratuities paid or payable by any prisoner on his or her entrance commitment or discharge to or from such prison, and also the compensation to the registrar of the Cinque Ports and clerk of *Dover Castle* for the *liberati* granted to any debtor on his or her discharge, shall be paid out of the funds raised by virtue of an Act of Parliament passed in the fifty-fourth year of the reign of his present Majesty, intituled *An Act for the Relief of Poor Debtors and others confined within the Gaol of Dover Castle*: Provided always that such allowance and compensation shall be verified allowed and paid in the same manner as the relief to such poor debtors and payment for the same is directed to be allowed verified and paid by the said recited Act.

No. XVII.

59 Geo. III.

c. 61.

Allowances to the Gaoler of Dover Castle Prison, &c., how to be paid.
54 G. 3. c. 97.

[No. XVII.] 59 Geo. III. c. 61.—An Act to enable Counties and Stewartries in *Scotland* to give Aid to Royal Burghs situated therein, for the Purpose of Improving Enlarging or Rebuilding their Gaols; or to Improve Enlarge or Rebuild Common Gaols of Counties and Stewartries which are not the Gaols of Royal Burghs.—
[2d July 1819.]

WHEREAS the gaols in the different royal burghs in *Scotland* are in general insecure and incommodious: And whereas although by the law of *Scotland* burghs are bound to provide and maintain proper gaols, yet the means of many of such burghs are insufficient for the necessary improvement thereof; wherefore it is expedient that counties and stewartries in *Scotland* should be enabled to contribute towards the expence that may be required for improving enlarging or rebuilding the gaols of the royal burghs of *Scotland* within the same: And whereas it is expedient that when common gaols of counties and stewartries in *Scotland* are not the gaols of royal burghs such counties and stewartries should be enabled to improve enlarge or rebuild such common gaols: May it therefore please your Majesty that it may be enacted; and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That if the magistrates and council of any royal burgh shall deem it expedient to solicit aid and assistance from the county or stewartry in which the same shall be situated, towards improving enlarging or rebuilding the gaol of any such royal burgh, they shall transmit to the clerk of supply of such county or stewartry a proposal in writing for the consideration of the commissioners of supply of such county or stewartry.

59 Geo. III.
c. 61.

Burghs may solicit Aid from County for Gaols.

II. And be it enacted, That the said clerk of supply upon receiving such proposal shall transmit it without delay to the convener, who shall call a meeting of the commissioners of supply of such county or stewartry for the consideration of the said proposal by public advertisement in one or more newspapers published in the said county or stewartry, or if no newspaper is published therein, by advertisement in such newspaper or newspapers as the convener usually intimates public county meetings in for the said county or stewartry, of which meeting six weeks' previous notice at the least shall be given.

Proposal of Magistrates to be submitted to Commissioners of Supply.

III. And be it further enacted, That no person shall be entitled to vote at any meeting to be held under this Act who shall not be a commissioner of supply possessed of the *dominium utile* of lands valued at one hundred pounds *Scots* or the factor of an absent commissioner of supply so qualified, duly authorized to attend and vote for his constituent at such meeting.

Qualification of Voters.

IV. And be it enacted, That it shall and may be lawful for such commissioners of Supply may appoint a Committee of their Number to confer with Magistrates.

No. XVII.
59 Geo. III.
c. 61.

missioners of supply or a majority of them at any such meeting if they shall think fit before coming to a final resolution upon any such proposal, to appoint a committee of their number to confer with the magistrates and town council making such proposals, and for the purpose of arranging with them all the details that may be necessary to enable the commissioners of supply to satisfy themselves as to the propriety of affording aid towards the purpose solicited, and for settling the plan or plans necessary for the execution of the work, and for ascertaining the expence thereof.

Commissioners
of Supply may
resolve to give
Aid.

V. And be it enacted, That after being satisfied as to the propriety of affording such aid, and also as to all such details as may be necessary for settling the plan of the work and the expence thereof, it shall and may be lawful for the said commissioners of supply at any meeting specially called for that purpose, or a majority of them then assembled, to resolve to give such aid as they may think fit towards improving enlarging or rebuilding any such gaol.

Resolution of
Commissioners
of Supply to be
transmitted to
Magistrates,
and, upon being
finally settled,
Assessment to
be made.

VI. And be it enacted, That a copy of the resolutions of such meeting, signed by the clerk of supply of such county or stewartry, shall thereupon be transmitted to the magistrates and town council of the burgh by whom such proposal shall have been made; and if within fourteen days after such resolutions shall have been received by such magistrates and town council they shall signify their willingness to such clerk of supply to proceed to improve enlarge or rebuild their gaol in the manner that shall have been expressed in such resolutions, then the commissioners of supply of such county or stewartry shall be and become bound to raise the money they shall have agreed to contribute for the purpose specified in such resolutions so transmitted as aforesaid by an assessment, which they are hereby authorized to make in the manner directed by this Act.

Relative
Amount of As-
sessment on
Lands and
Houses.

VII. And be it enacted, That such assessment shall be made as follows; namely, upon all lands and heritages contained in the valuation books of such county or stewartry according to the valued rent of such lands and heritages, and upon all inhabited houses within such county or stewartry of the annual value of five pounds sterling or upwards according to such annual value; that is to say, for every five pounds *Scots* that shall be assessed on every one hundred pounds *Scots* of the valued rent of lands and heritages there shall be assessed the sum of one penny sterling on every pound sterling of the annual value according to which such inhabited houses shall be assessed for the house tax; but it is hereby expressly provided and declared, that inhabited houses though of the annual value of five pounds sterling or upwards, erected or to be erected on lands valued in the valuation books of the said county or stewartry and chargeable with assessment imposed by this Act on lands and heritages so valued to a greater amount than the sum for which the said inhabited houses would be chargeable under this Act, shall not also be liable to the assessment hereby imposed on inhabited houses of the aforesaid value.

When such
Assessment
shall be made.

VIII. And be it further enacted, That such assessment shall be made in the proportions aforesaid by such commissioners of supply at a meeting to be held for that purpose, and shall be directed to be levied at such times as shall be specified in the order making the assessment, so that the sums resolved to be levied may be collected within the period requisite for accomplishing the purposes for which such aid or assistance shall have been resolved to be given.

Assessment
how to be col-
lected.

IX. And be it enacted, That such assessment upon lands and heritages shall be collected by the collector of the cess in such county or stewartry, and such assessment upon inhabited houses shall be collected by the collector of the assessed taxes levied upon such houses; and all the powers and authorities granted by any Act or Acts of Parliament to such collector of the land tax and to such collector of the assessed taxes, for the levying and recovering thereof respectively, are hereby given and granted for the levying and recovering of such assessment.

X. And be it enacted, That all sums of money levied by any such collector of the land tax or collector of the assessed taxes respectively, for or in respect of such assessment, shall after retaining an allowance for their trouble, not exceeding the allowance made to them for collecting the land tax and assessed taxes respectively, be paid over and accounted for by every such collector to such person or persons and at such time or times as shall be directed by the said commissioners of supply; and if any such collector shall not so pay and account for the same accordingly, every such collector so making default shall forfeit double the sum so neglected to be paid, to be recovered with interest thereon by the clerk of the commissioners of supply who shall sue for the same before the judge ordinary of the bounds with costs or expences of process; and such forfeiture shall be applied to the purposes for which such assessment was imposed and levied.

XI. And be it enacted, That the amount of every such assessment shall be wholly paid by the owners of lands as well as houses: Provided nevertheless, that the whole of such assessment upon houses shall be paid by the occupiers thereof in the first instance, but they shall be entitled and they are hereby authorized to retain from their landlords out of the first year's rent the whole amount of such assessment, which such landlords are hereby required and obliged to allow as part of the rent due for such inhabited houses on production and delivery of the collector's receipt for the same.

XII. And be it enacted, That in all cases where any common gaol of any county or stewartry in *Scotland* is not the gaol of a royal burgh, it shall and may be lawful from time to time for any five or more of the commissioners of supply of any such county or stewartry, by a writing under their hands addressed to the convener of such county, to require him within six weeks from the date of such requisition being made to call a meeting of the commissioners of supply of such county or stewartry to take into consideration the state of such common gaol; and such convener shall thereupon call such meeting of the commissioners of supply of such county or stewartry to be held within six weeks from the date of the receipt of such requisition, by public advertisement in one or more newspapers published in such county or stewartry; or if no newspaper is published therein, by advertisement in such newspaper or newspapers as the convener usually intimates public county meetings in for such county or stewartry.

XIII. And be it enacted, That at such meeting or at some adjournment thereof such commissioners of supply shall settle and determine whether any and what improvement or enlargement of such common gaol is necessary, or if it is necessary to rebuild the same; and before coming to a final resolution as to the plan proper to be adopted, shall and may if they think fit appoint a committee of their number to procure plans and estimates and to arrange all necessary details to enable the said commissioners to come to a final determination as to the mode of proceeding to be adopted: Provided always, that nothing herein contained shall empower or authorize the rebuilding of such common gaol of any county or stewartry in any burgh or town, other than the burgh or town in which such common gaol is at present situated.

XIV. And be it enacted, That at such first meeting or at some adjournment thereof it shall and may be lawful for the said commissioners of supply or a majority of them to resolve and determine to what amount such county or stewartry shall be assessed for the improvement enlargement or rebuilding of any common gaol therein, and shall then or at some subsequent meeting to be held for that purpose make such assessment and direct the same to be levied at such times as shall be specified in the order making the assessment, so that the sums resolved and determined to be levied may be collected within the period requisite for accomplishing the purposes for which the same is to be levied; which assessment shall to such amount be made and collected in the manner herein-before directed with regard to assessments on counties and stew-

No. XVII.
59 Gen. III.
c. 61,

Assessment to be accounted for by Collectors.

Assessment to be paid by Landlords, but Tenants to pay in the first instance.

Power to grant Aid to County Gaols in Burghs, not being Royal Burghs.

Commissioners of Supply to settle whether any Enlargement of Gaol is necessary.

Gaols to be rebuilt in Burghs where they are now situated.

How to levy and collect Assessments.

No. XVII.
59 Geo. III.
c. 61.

Heirs of Entail
may charge Estates with Three-fourths Assessments.
Mode of Recovery of
Three-fourths
Assessment, in
Cases of En-
tailed Estates.

10 G. 3. c. 51.

Rules of Relief
among Heirs of
Entail.

Commissioners
of Supply may
borrow Money.

Committee of
Superintend-
ance may be
appointed.

Power and Re-
sponsibility of
Magistrates to
continue as be-
fore.

artifices for aid to royal burghs towards improving enlarging and rebuilding their gaols.

XV. And be it enacted, That every proprietor of an entailed estate who shall pay assessments under this Act shall be a creditor to the succeeding heirs of entail in the manner after mentioned for three-fourth parts of the money so to be paid.

XVI. And be it enacted, That the person or persons having right to the claim arising from money so to be paid as aforesaid by the proprietor of an entailed estate in discharge of assessments under this Act, may after the expiration of one year from the death of such proprietor require the heirs succeeding to such estate to repay the said three-fourth parts of the said money so paid with the legal interest thereof from the term at which the said succeeding heir's right to the rents of the estate shall commence, upon receiving a proper assignment and conveyance of the said claim: and if the money so due be not paid within three months after such requisition, it shall be lawful for the person or persons having right thereto to sue the said heirs in the manner directed for the recovery of money expended in the improvements of entailed estates by an Act passed in the tenth year of the reign of his present Majesty, intituled *An Act to encourage the Improvement of Lands Tenements and Hereditaments in that Part of Great Britain called Scotland, held under the Settlements of strict Entail*.

XVII. And be it enacted, That the same rules of relief among succeeding heirs of entail and their heirs and their successors of the claims for debt and of preference in competition of rents and in subjecting defenders to the payment of costs shall take place with regard to monies expended by the proprietors of entailed estates in payment of assessments under this Act as are enacted by the said Act passed in the tenth year of the reign of his present Majesty with respect to monies expended by proprietors of entailed estates in making improvements upon their estates for increasing the rents and value thereof.

XVIII. And be it enacted, That such commissioners of supply shall have power and they are hereby authorized and empowered to borrow and take up at interest, on the security of the assessment hereby authorized to be levied, such sum or sums of money as they shall judge requisite for defraying the share or proportion of the expence of improving enlarging or rebuilding any gaol towards the expence of which they may think fit to contribute; or for improving enlarging or rebuilding such common gaol of the county or stewartry as the case may be; provided that the whole amount of the money so borrowed shall not exceed such sum as they shall have so resolved to contribute; and it shall be lawful for such commissioners of supply and they are hereby empowered to assign or make over the whole or any part of the assessment hereby authorized to be made to any person or persons willing to lend money on the security thereof at a rate not exceeding five pounds sterling *per centum per annum*; and every such assignment shall be made and executed by the clerk of supply, being specially authorized to do so at a general meeting of the commissioners of supply, and shall be entered in a book or books to be kept by him for that purpose, which book or books may be seen and perused by any person or persons interested therein without fee or reward; and all such assignments so executed shall be transferrable by indorsement duly subscribed by the party transferring in the presence of one or more subscribing witness or witnesses.

XIX. And be it enacted, That it shall and may be lawful for such commissioners of supply to appoint a committee of their number to superintend the execution of any work to which they may so contribute or which they may so resolve to execute (as the case may be) and the proper application of the money contributed for that purpose.

XX. And be it enacted, That when the gaol of any royal burgh, to the improving enlarging or rebuilding of which aid shall have been afforded under this Act shall have been completed, and with any yards, courts, out-offices, or conveniences therein shall be used for confining debtors, felons,



vagrants, and other delinquents, the magistrates and town council of the burgh wherein the same shall be situated and the gaoler or keeper gaolers or keepers of such gaol shall be respectively answerable, to all intents and purposes whatsoever, for the safe custody of all such persons as shall from time to time be committed to his or their custody in such gaol in the like manner as any magistrates and town council and the gaolers employed by them now are by law liable; and such magistrates and council shall have the same power over such gaol and the gaolers and keepers thereof and the debtors, felons, vagrants, and other delinquents who shall be confined therein as they had in the gaol before the same shall have been improved enlarged or rebuilt; and such magistrates and town council, so soon as any such gaol so improved enlarged or rebuilt shall be delivered over to them, shall be bound and obliged to keep and maintain the same in good and sufficient repair from the funds of the burgh in all time coming.

XXI. And be it further enacted, That if it shall be found necessary for the purpose of improving enlarging or rebuilding any gaol of any royal burgh now existing that the prisoners therein should be removed during the period of such improvement enlargement or rebuilding, it shall be lawful for the magistrates of the burgh within which such gaol is situated to remove such prisoner or prisoners to any secure place of confinement within the said burgh or to any other gaol within the said county or stewartry, until such improvement enlargement or rebuilding shall be completed; and it shall be lawful for all persons legally authorized to commit other debtors felons and delinquents to commit them to the same; and when any such improved enlarged or new gaol shall be fit for the reception of prisoners, it shall be lawful for the magistrates and town council of the burgh in which such improved enlarged or new gaol shall be situated, and the keeper or keepers of such gaol to remove thereto all such debtors felons and other prisoners as shall then be confined in such other secure place of confinement; and such removal or removals and the airings or exercising of the prisoners who shall be confined in the improved enlarged or new gaol in any yards, courts, out-offices, or conveniences thereunto belonging shall not be deemed or taken to be an escape or escapes: Provided always that the magistrates of such burghs shall continue to be responsible for the safe custody of all such debtors felons and other prisoners during their removal to or confinement in such other secure place of confinement.

Prisoners may be removed while Gaol is repairing.

XXII. And be it enacted, That if it shall be found necessary for the improving enlarging or rebuilding any common gaol within any county or stewartry, not being the gaol of a royal burgh, that the prisoners therein should be removed during the period of such improvement enlargement or rebuilding, it shall be lawful for the justices of the peace for such county or stewartry in general sessions assembled to direct the removal of such prisoners and for all persons legally authorized to commit other debtors felons and delinquents to any secure place of confinement within such county or stewartry until such improvement enlargement or rebuilding shall be completed; and when any such improved enlarged or new gaol shall be fit for the reception of prisoners, it shall be lawful for such justices so assembled as aforesaid to direct the removal thereto of all such debtors felons or other prisoners as shall then be confined in such secure place of confinement and should by law be confined in such common gaol of the county or stewartry; and such removal and removals and the airings and exercising of the prisoners who shall be confined in such improved enlarged or new gaol in any yards, courts, out-offices, or conveniences thereto belonging, shall not be deemed or taken to be an escape or escapes; and the legal responsibility for the safe custody of all persons committed to such gaol and the burthen and obligation to keep and maintain the same in good condition shall after such improvement enlargement or rebuilding be no ways altered thereby or by any thing in this Act contained.

Prisoners may be removed while Gaols are repairing, in Cases where the same are not in Royal Burghs.

XXIII. And be it enacted, That if any person or persons shall think himself herself or themselves aggrieved by, any assessments imposed by

Appeal against Assessment.

No. XVIII.

59 Geo. III.
c. 100.

virtue of this Act, it shall and may be lawful for such person or persons within three months after any such assessment shall have been demanded but not afterwards to appeal against the same to the justices of the peace at the quarter sessions of the county or stewardry wherein the subject matter of the complaint shall have arisen; giving fourteen days' notice of such appeal to the collector of the assessment and lodging with such appeal a bond with sufficient surety or caution for fulfilling and implementing the sentence to be pronounced and for paying such expences as shall be awarded by the said justices of the peace, who are hereby authorized to determine the matter in dispute, and their judgment shall be exclusive of all other jurisdiction, and shall be final and conclusive without being subject to review in any court whatsoever.

Limitation of
Actions.

XXIV. And be it further enacted, That no action or suit shall be commenced against any person or persons for any thing done in pursuance or by virtue of this Act after six calendar months from the time the fact was committed or the cause of action had occurred for which such action or suit shall be brought; and the defender or defenders in any such action or suit may produce this Act and plead that the same was done by authority and in virtue thereof; and if it shall appear so to be done, or if any such action or suit shall be brought after the time hereby limited for bringing the same, then and in such case the defender or defenders shall be absolved from such action or suit and the pursuer or pursuers therein shall be found liable to pay the whole expence of process incurred by the defender or defenders.

Public Act.

XXV. And be it further enacted, That this Act shall be deemed and taken to be a public Act and shall be judicially taken notice of as such by all judges justices and others without being specially pleaded.

[No. XVIII.] 59 Geo. III. c. 100.—An Act to amend an Act of the Fiftieth Year of the Reign of His present Majesty, relating to Prisons in *Ireland*.—[12th July 1819.]

59 George III.
c. 100.

50 G. 3. c. 103.

WHEREAS by an Act made in the fiftieth year of his present Majesty's reign, intituled *An Act for repealing the several Laws relating to Prisons in Ireland, and for re-enacting such of the Provisions thereof as have been found useful, with Amendments*, it is amongst other things enacted, That it shall and may be lawful for each and every grand jury in *Ireland*, and they are thereby required at any assizes or presenting term to appoint a proper and discreet person being duly ordained in holy orders and of the established church to be chaplain of the several gaols, bridewells, houses of correction, or other prisons of and in their respective counties counties of cities and counties of towns; and that it shall and may be lawful for every such grand jury if they shall be so required by the court also to appoint a proper and discreet person being a Protestant dissenting minister to be Protestant dissenting chaplain thereof; and also if they shall be so required by the court to appoint a priest or clergyman of the Roman Catholic church to be Roman Catholic chaplain: And whereas it may happen that grand juries may omit to make effectual appointments under the directions of the said recited Act; and it is expedient to provide for the appointment of such chaplains in case of any such omission by any grand jury: Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That if at any time after the passing of this Act any grand jury at any assizes or presenting term, after having been required by the court or judge at any such assizes or presenting term to appoint a proper person to be chaplain or Protestant dissenting chaplain or Roman Catholic chaplain to any gaol, bridewell, house of correction, or other prison in their respective counties counties of cities or counties of towns pursuant to the directions of the said recited Act, shall omit to make an effectual appointment or appointments of such chaplain or chaplains respectively before

In default of
Appointment of
Chaplains by
the Grand Jury,
Lord Lieu-
tenant shall ap-
point them.

the last day of such assizes or presenting term; or in case any chaplain nominated and appointed by such grand jury shall not within one calendar month next after such nomination actually take upon him to exercise and perform or shall not continue duly and regularly to exercise and perform the duty to and for which he shall be so appointed by such grand jury; then and in every such case it shall and may be lawful to and for the lord lieutenant or other chief governor or governors of *Ireland* for the time being to appoint a proper and discreet person, being either a minister of the established church or a Protestant dissenting minister or a priest or clergyman of the Roman Catholic church as the case shall require, to fill the office or offices of such chaplain or Protestant dissenting chaplain or Roman Catholic chaplain to such gaol, bridewell, house of correction, or other prison or prisons; and that all and every such chaplain and chaplains so appointed by such lord lieutenant or other chief governor or governors shall hold and exercise the office or offices of chaplain or Protestant dissenting chaplain or Roman Catholic chaplain or any or either of them as fully and effectually in all respects and to all intents and purposes and with all the same rights, powers, privileges, and advantages and subject to the same controul and liability of removal as if such chaplain or chaplains respectively had been appointed to such office or offices by the grand jury according to the direction of the said recited Act, and shall be entitled to such salaries to be presented by grand juries to such amount and in such manner as is directed by the said recited Act; any thing in the said recited Act or any other Act or Acts or any law usage or custom to the contrary notwithstanding.

[No. XIX.] 4 Geo. IV. c. 64.—An Act for consolidating and amending the Laws relating to the building repairing and regulating of certain Gaols and Houses of Correction in *England* and *Wales*.—[10th July 1823.]

WHEREAS the laws now existing relative to the building repairing and regulating of gaols and houses of correction, in *England* and *Wales*, are complicated, and have in many cases been found ineffective: And whereas it is expedient that such measures should be adopted, and such arrangements made in prisons, as shall not only provide for the safe custody, but shall also tend more effectually to preserve the health and to improve the morals of the prisoners confined therein, and shall insure the proper measure of punishment to convicted offenders: And whereas due classification, inspection, regular labour and employment, and religious and moral instruction, are essential to the discipline of a prison, and to the reformation of offenders: And whereas the present laws directing the separation, superintendence, employment, and instruction of prisoners, require to be amended and enlarged, and to be more uniformly and strictly carried into effect; and it is therefore expedient that the most useful provisions contained in the several Statutes and Acts, and parts of Statutes and Acts herein-after mentioned, should be consolidated, and that some new provisions should be added thereto: Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That from and after the commencement of this Act, the several Statutes and Acts, and parts of Statutes and Acts following, shall be repealed, so far as relates to such gaols or prisons, or houses of correction, as this Act shall extend to; (that is to say), so much of a Statute passed in the first year of the reign of King *Edward* the Third, as relates to inquiry to be made of gaolers, which by duress compel prisoners to appeal; and also, so much of a Statute passed in the fourth year of the reign of the said King *Edward* the Third, as relates to sheriffs and gaolers receiving offenders without taking any thing; and also, so much of a Statute passed in the fourteenth year of the reign of the said King *Edward* the Third, as relates to the punishment of a gaoler compelling a prisoner by duress to become an approver;

Recited Acts
in Part or in
Whole, so far
as relates to
Prisons to which
this Act shall
extend, re-
pealed.
1 E. 3. st. 1.
c. 7.
4 E. 3. c. 10.
14 E. 3. st. 1.
c. 10.

No. XIX.
4 Geo. IV.
c. 64.

7 J. 1. c. 4.

19 C. 2. c. 4.

22 & 23 C. 2.
c. 20.

11 & 12 W. 3.
c. 19. (al-
though made
perpetual by
6 G. 1. c. 19.)

2 G. 2. c. 22.

14 G. 2. c. 33.

16 G. 2. c. 31.

17 G. 2. c. 5.

24 G. 2. c. 40.

32 G. 2. c. 28.

13 G. 3. c. 58.

and also, so much of an Act passed in the seventh year of the reign of King James the First, intituled *An Act for the due Execution of divers Laws and Statutes heretofore made against Rogues, Vagabonds, and sturdy Beggars, and other lewd and idle Persons*, as relates to the providing houses of correction, to the appointment authority and allowance of the governor, and to his accounting to justices for persons committed to his custody; and also, so much of an Act passed in the nineteenth year of the reign of King Charles the Second, intituled *An Act for the Relief of poor Prisoners, and setting them to work*, as relates to the providing stocks for setting such prisoners to work, and to the removal of prisoners on occasion of sickness; and also, so much of an Act passed in the twenty-second and twenty-third years of the reign of the said King Charles the Second, intituled *An Act for the Relief and Release of poor distressed Prisoners for Debt*, as relates to prisoners being allowed to send for victuals and other necessities, and to fees and charities, and to the separation of felons and debtors; and also an Act passed in the eleventh and twelfth years of the reign of King William the Third, intituled *An Act to enable Justices of Peace to build and Repair Gaols in their respective Counties*; any thing in an Act made in the sixth year of the reign of King George the First, for making perpetual any Act or Acts relating to the building and repairing of county gaols, to the contrary in anywise notwithstanding; and also, so much of an Act passed in the second year of the reign of King George the Second, intituled *An Act for the Relief of Debtors, with respect to the Imprisonment of their Persons*, as relates to prisoners being allowed by keepers of prisons and gaols to send for victuals and other necessities, and to the taking of fees, and the making and hanging up tables thereof, and to inquiries concerning the same, and to the hearing of complaints of extortion against gaolers, and examining into gifts and legacies for the benefit of poor prisoners, and hanging up tables thereof; and also, so much of an Act passed in the fourteenth year of the reign of the said King George the Second, intituled *An Act to supply some Defects in the Laws for repairing and rebuilding County Bridges, for repairing, enlarging, erecting, and providing Houses of Correction, and for passing Rogues and Vagabonds*, as relates to repairing enlarging and building houses of correction, and to buying houses and lands for that purpose; and also, so much of an Act passed in the sixteenth year of the reign of the said King George the Second, intituled *An Act for the further Punishment of Persons who shall aid or assist Prisoners to attempt to escape out of lawful Custody*, as relates to the escape of prisoners from any gaol or prison to which this Act shall extend; and also, so much of an Act passed in the seventeenth year of the reign of the said King George the Second, intituled *An Act to amend and make more effectual the Laws relating to Rogues Vagabonds and other idle and disorderly Persons, and to Houses of Correction*, as relates to the erecting enlarging and managing of Houses of Correction, and the finding or turning out of masters of them for misbehaviour; and also, so much of an Act passed in the twenty-fourth year of the reign of the said King George the Second (made among other things for granting an additional duty upon spirituous liquors, and upon licences for retailing the same, and for repealing an Act of the twentieth year of King George the First, made among other things for more effectually restraining the retailing of distilled spirituous liquors), as relates to the retailing of spirituous liquors in gaols prisons or houses of correction, to the carrying of liquors into the same, to the search for such liquors, and to the hanging up of a copy of certain clauses of the said Act in such gaols prisons or houses; and also, so much of an Act passed in the thirty-second year of the reign of the said King George the Second, for relief of debtors, with respect to the imprisonment of their persons, as relates to prisoners being allowed to send for victuals and other necessities, and to the settling, signing, reviewing, inrolling, and hanging up of tables of fees rates and benefactions, and rules for the government of gaols and prisons; and also, an Act passed in the thirteenth year of the reign of his late Majesty King George the Third, intituled *An Act for providing Clergymen to officiate in Gaols within that Part of Great Britain called England*; and also, an Act

passed in the fourteenth year of the reign of his said late Majesty, intituled *An Act for preserving the Health of Prisoners in Gaol, and preventing the Gaol Distemper*; and also, an Act passed in the twenty-second year of his said late Majesty's reign, intituled *An Act for the amending and rendering more effectual the Laws in being relative to Houses of Correction*; and also, two Acts passed in the twenty-fourth year of his said late Majesty's reign, the one made to explain and amend the herein-before recited Act, made in the eleventh and twelfth years of the reign of King William the Third, and the other made to explain and amend the herein-before recited Act of the twenty-second year of the reign of his said late Majesty King George the Third; and also, an Act passed in the twenty-ninth year of his said late Majesty's reign, intituled *An Act for the more effectual Execution of the Laws respecting Gaols*; and also, an Act passed in the thirty-first year of his said late Majesty's reign, intituled *An Act for the better regulating of Gaols and other Places of Confinement*, except only so much of the said Act as relate to the imprisonment and employment in hard labour in the common gaol of the county, of prisoners sentenced to transportation, or to whom the royal mercy shall be extended on condition of transportation; and also, an Act passed in fifty-fifth year of his said late Majesty's reign, for enlarging the powers of the herein-before recited Acts of the thirteenth and twenty-second years of his said late Majesty's reign, for providing clergymen to officiate in gaols and houses of correction within *England and Wales*; and also, an Act passed in the fifty-eighth year of his said late Majesty's reign, to amend so much of the said Act of the fifty-fifth year of his said late Majesty's reign, as relates to the salaries of the clergymen officiating as chaplains in houses of correction; and the said several Statutes and Acts, and parts of Statutes and Acts, are hereby repealed accordingly, and from and after the commencement of this Act shall cease and determine, so far as relates to gaols and houses of correction to which this Act shall extend; save and except so far as the said Acts or any of them repeal any former Act or Acts, or any clause matter or thing therein; and also, save and except as to any proceeding for the punishment of any person for any offence which shall before the commencement of this Act have been committed; and as to any presentment before that time made by any justice of the peace or grand jury; and as to any appointment before that time made by any officer or other person, to perform any duties under the said recited Acts, or any of them; and as to any rules and regulations, acts and deeds, before that time lawfully established made or done, under or by virtue of any one or more of the said Acts; and as to the fulfilment of any contracts or agreements before that time lawfully made, under or by virtue of the said recited Acts, or any of them.

II. And be it further enacted, That from and after the commencement of this Act, there shall be maintained, at the expence of every county in *England and Wales*, one common gaol, and at the expence of every county not divided into ridings or divisions, and of every riding or division of a county (having several and distinct commissions of the peace, or several or distinct rates in the nature of county rates, applicable by law to the maintenance of a prison for such division) in *England and Wales*, at least one house of correction; and one gaol and one house of correction shall be maintained in the several cities towns and places mentioned in the schedule marked (A.) annexed to this Act; and the regulations and provisions contained in this Act shall extend, in manner herein-after mentioned, to every such gaol and house of correction maintained at the expence of such county, riding, division, city, town, or place, and to the several gaols and houses of correction in the cities of *London and Westminster*.

III. Provided always, and be it enacted, That where there shall have been already established, and shall be existing at the time of passing of this Act, in any county, riding, division, city, town, or place, one or more house or houses of correction, not sufficient or capable of being made sufficient for the extended classification required by this Act, it shall be lawful for the justices assembled at their general or quarter sessions, or the major part of them, if they shall so think fit, to order and direct that,

No. XIX.

4 Geo. IV.
c. 64.14 G. 3. c. 59.
22 G. 3. c. 64.
24 G. 3. st. 2.
cc. 54, 55.

29 G. 3. c. 67.

31 G. 3. c. 46.

55 G. 3. c. 48.

58 G. 3. c. 32.

Exception.

In each County, Riding, &c., and in each City, mentioned in Schedule (A.) annexed, there shall be One Gaol and One House of Correction. This Act shall extend to such Gaols, and to the Prisons in London and Westminster. Houses of Correction already established may be retained to be used for particular Classes of Prisoners.

No. XIX.

4 Geo. IV.
c. 64.

Justices in Sessions shall proceed to carry this Act into effect;

and shall ascertain the Classes to be confined in the several Prisons.

Notice of the Order of Sessions to be given, and a Copy served on the Keeper of every Gaol, &c.

No Classification to be made in any House of Correction contrary to this Act.

Where House of Correction and Gaol are Parts of the same Building, or inclosed in the same Boundary Wall, and under the same Keeper and Visiting Justices, the Classification in the whole of such Buildings, and not in each Part separately required by this Act, shall be carried into Effect.

in addition to the house of correction herein-before directed to be maintained for the purposes of this Act, one or more of such houses of correction as shall be so existing as aforesaid at the time of the passing of this Act, shall be continued and maintained for the reception of one or more particular class or classes or description or descriptions of prisoners, as may be prescribed by the justices assembled at their general or quarter sessions as directed by this Act.

IV. And be it further enacted, That at the *Michaelmas* general quarter sessions which shall be held in every county riding or division of a county in *England* and *Wales*, and in the several districts, cities, towns, and places to which this Act shall extend, next after the commencement of this Act, and that at any subsequent general or quarter sessions to be held from time to time, the justices of the peace there assembled shall proceed in carrying this Act into effect; and such justices shall, by orders to be made for that purpose, ascertain and declare to what class or classes of prisoners every such gaol house or houses of correction or any part or parts of any of them respectively, shall be applicable; and every such order shall be signed by the chairman of such sessions, and shall be notified by the clerks of the peace to the several justices of the peace in every such county riding or division, district, city, town, or place respectively; and notice thereof shall be inserted in three of the newspapers usually circulated in such county riding or division, or district, city, town, or place respectively, within three weeks after any such order shall be made at any such sessions; and a copy thereof shall be served upon the keeper of every gaol or house of correction within every such county, riding, division, city, district, town, or place; and after the making of such order and service of such copy thereof upon such keeper as aforesaid, such class or classes of prisoners as shall be specified in such order, and no other, shall be committed to or detained in any such gaol house or houses of correction, or any part of any of them respectively; and all persons not coming within the class or description of prisoners who may lawfully be committed to or detained in such prison as shall be appointed by the justices for the confinement of one or more class or classes of prisoners, may be removed to the gaol or house of correction of the county riding or division; and every such gaol or house of correction shall be deemed the legal gaol prison or place of confinement of every person respectively committed to the same in pursuance of such order as aforesaid; any thing in any Act or Acts, or any law custom or usage to the contrary notwithstanding: Provided always, that no classification of prisoners shall be made in any house of correction appropriated to the reception of any particular class or classes of prisoners, which shall be in any way inconsistent with or contrary to the classification directed by this Act.

V. Provided always, and be it further enacted, That where, in any county riding or division of a county, or in any of the cities towns and places named in the said schedule (A.), any house of correction shall be part of the same building, or inclosed in the same boundary wall as, or shall be contiguous to, the common gaol, and shall be under the superintendence of the same keeper, and the same visiting justices, it shall be lawful for the justices of the peace of the county, division, city, town, or place, assembled at any general or quarter sessions, from time to time, with the consent of the sheriff of the county for the time being, signified in writing under his hand, to proceed to carry into effect the classification and separation directed by this Act in the whole of such united or contiguous building or buildings, instead of in each such house of correction and gaol, and to divide the whole of such building, or united or contiguous buildings, into such number of compartments for the purpose of such separation and classification as would be required under the regulations of this Act, if the same had been one district gaol or house of correction; and also at any general or quarter sessions from time to time, by their order or orders, and with such consent of the sheriff as aforesaid, to ascertain and declare what part or parts of the same building, or united or contiguous buildings, shall be considered as the gaol, and what part or parts thereof respectively shall be considered as the house of correction,

No. XIX.

4 Geo. IV.

c. 64.

and shall be appropriated to the confinement of particular classes and descriptions of prisoners, and to direct what classes and descriptions respectively shall be confined in each part or division of such building, or united or contiguous buildings; and all persons to be committed to or detained in the respective parts and divisions so to be ascertained and appropriated of any such building, or united or contiguous buildings, to them respectively applicable, shall be deemed and held to be in legal custody: Provided that prisoners for debt may be removed to and shall always be confined in the part or parts of such building, or united or contiguous buildings, which shall be so ascertained or be appropriated as and for the gaol of the county, division, city, town, or place; and such removal shall not be deemed or taken to be an escape.

VI. Provided always, and be it further enacted, That all persons who in pursuance of any such order shall be removed to, committed to, or detained in the part of such united or contiguous buildings which shall be so declared and ascertained aforesaid to be the gaol, shall from thenceforth be deemed to be in the legal custody of the sheriff and of the gaoler appointed by the sheriff, in the same manner as if such person had been committed to the common gaol before the passing of this Act: Provided also, that the sheriff shall not be answerable for the safe custody of any person who in pursuance of any such order shall from time to time be removed to committed to or detained in any part of such united or contiguous buildings other than the part so ascertained and declared to be the gaol.

VII. And whereas the practice of committing vagrants to common gaols has been attended with much inconvenience to the classification of prisoners, and has prevented a uniformity of practice in the management of prisons; be it therefore enacted, That from and after the first day of September one thousand eight hundred and twenty-four, in every county riding or division of a county in *England and Wales*, and in the several districts, cities, towns, or places to which this Act shall extend, all idle and disorderly persons, rogues and vagabonds, incorrigible rogues, and other vagrants, shall be committed to some house of correction belonging to such county riding or division, district, city, town, or place respectively; and that such house of correction shall be deemed the only legal place of commitment of any such person in pursuance of any conviction by lawful authority; any thing in any Act contained to the contrary in anywise notwithstanding.

VIII. Provided also, and be it enacted, That in all cases where any person liable by law to be committed to the house of correction shall be apprehended within any district, city, town, or place mentioned in the schedule to this Act annexed, and the inhabitants of any such district, city, town, or place are or shall be contributory to the support and maintenance of the house or houses of correction of the county riding or division in which such district, city, town, or place is situate, it shall and may be lawful for the justices of the peace of such district, city, town, or place, to commit such person to the house of correction of the county riding or division in which such district, city, town, or place is situate; and every person so committed shall and may be received, detained, dealt with, and ordered to be set and kept to hard labour or other work, or conveyed and sent away or discharged, and be subject and liable to the same correction and punishment to all intents and purposes, as if committed by any justice or justices of the peace of such county riding or division; and in such case it shall not be necessary or required that any other house of correction shall be built or maintained in or for such district, city, town, or place, and the inhabitants of such district, city, town, or place shall not be compelled or compellable to the payment of any rate or sum of money whatever for the building or maintaining of any other house of correction in or for such district, city, town, or place; any thing in this Act contained to the contrary in anywise notwithstanding.

IX. Provided also, and be it enacted, That nothing in this Act contained shall extend to take away, lessen, vary, alter, or affect any right

Prisoners for Debt to be confined in that Part of the Building appropriated for the Gaol.

Persons removed to the Part of the Building declared to be the Gaol shall be deemed in Custody of the Sheriff, who shall cease to be answerable for the Building.

Rogues and Vagabonds shall be committed to the House of Correction and not to a Common Gaol.

Power to Justices to commit to the House of Correction of the County, in Cases where the Person is apprehended in any District, &c., mentioned in the Schedule.

Not necessary to build a House of Correction for any such District, &c.

Rights of Mayors, &c., having separate Jurisdictions, not to be affected.

No. XIX.

4 Geo. IV.
c. 64.

Rules and Regulations to be observed in all Gaols.

privilege or franchise, which before the passing of this Act any mayor bailiff or justice of the peace for the time being of any city town or liberty, having a separate jurisdiction, had by means of any grant charter or special or local Act of Parliament, to commit prisoners to the gaol or house of correction of any county riding or division.

X. And whereas it is fit and proper to secure an uniformity of practice in the management of the several prisons to which this Act shall extend; Be it therefore further enacted, That the following rules and regulations shall be observed and carried into effect in every such prison in *England* and *Wales*, which shall be maintained by any county or riding, or division of a county as aforesaid, as a gaol or house of correction, and in the gaol and house of correction of every district, city, town, or place mentioned in the schedule marked (A.) annexed to this Act, and in every united and contiguous gaol and house of correction which shall be jointly used in manner aforesaid for the purposes of this Act, and in every prison authorized to be continued under this Act as aforesaid, in any county or riding, or division of a county, so far as such rules may be applicable or can be applied to the particular description or class of prisoners confined in such prison :

First :—The keeper of every such prison shall reside therein ; he shall not be an under sheriff or bailiff, nor shall be concerned in any occupation or trade whatsoever ; no keeper or officer of a prison shall sell, nor shall any person in trust for him or employed by him sell or have any benefit or advantage from the sale of any article to any prisoner, nor shall he, directly or indirectly, have any interest in any contract or agreement for the supply of the prison.

Second :—A matron shall be appointed in every prison in which female prisoners shall be confined, who shall reside in the prison ; and it shall be the duty of the matron constantly to superintend the female prisoners,

Third :—The keeper shall, as far as may be practicable, visit every ward, and see every prisoner, and inspect every cell once at least in every twenty-four hours : and when the keeper, or any other officer, shall visit the female prisoners, he shall be accompanied by the matron, or in case of her unavoidable absence, by some female officer of the prison.

Fourth :—The keeper shall keep a journal, in which he shall record all punishments inflicted by his authority, or by that of the visiting justices, and the day when such punishments shall have taken place, and all other occurrences of importance within the prison, in such manner as shall be directed by the regulations to be made under this Act ; which journal shall be laid before the justices at every general or quarter sessions, to be signed by the chairman, in proof of the same having been there produced.

Fifth :—Due provision shall be made in every prison for the enforcement of hard labour in the cases of such prisoners as may be sentenced thereto, and for the employment of other prisoners. The means of hard labour shall be provided, and the materials requisite for the employment of prisoners shall be purchased, under such regulations as may be made for that purpose by the justices in general or quarter sessions assembled. If the work to be performed by the prisoners be of such a nature as to require previous instruction, proper persons shall be appointed to afford the same.

Sixth :—The male and female prisoners shall be confined in separate buildings or parts of the prison, so as to prevent them from seeing conversing or holding any intercourse with each other ; and the prisoners of each sex shall be divided into distinct classes, care being taken that prisoners of the following classes do not intermix with each other : in gaols—First, debtors and persons confined for contempt of court on civil process : Second, prisoners convicted of felony ; Third, prisoners convicted of misdemeanors ; Fourth, prisoners committed on charge or suspicion of felony ; Fifth, prisoners committed on charge or suspicion of misdemeanors, or for want of sureties : in houses of correction—First, prisoners convicted of felony ; Second, prisoners con-

victed of misdemeanors; Third, prisoners committed on charge or suspicion of felony; Fourth, prisoners committed on charge or suspicion of misdemeanors; Fifth, vagrants. Such prisoners as are intended to be examined as witnesses in behalf of the Crown in any prosecution shall also be kept separate in all gaols and houses of correction.

No. XIX.

4 Geo. IV.
c. 64.

Justices may authorize the Employment of Prisoners in menial Offices.

Power to the Keeper to confine a Prisoner with another Class till he receives the Directions of a Visiting Justice.

Provided always, that nothing herein contained shall be construed to extend to prevent the justices from authorizing, at their discretion, the employment of any prisoner in the performance of any menial office within the prison, or for the purpose of instructing others; and provided also, that if the keeper shall at any time deem it improper or inexpedient for a prisoner to associate with the other prisoners of the class to which he or she may belong, it shall be lawful for him to confine such prisoner with any other class or description of prisoners, or in any other part of the prison, until he can receive the directions of a visiting justice thereon, to whom he shall apply with as little delay as possible, and who in every such instance shall ascertain whether the reasons assigned by the keeper warrant such deviation from the established rules, and shall give such orders in writing as he shall think fit, under the circumstances of the particular case.

Seventh:—Female prisoners shall in all cases be attended by female officers.

Eighth:—Every prisoner sentenced to hard labour shall, unless prevented by sickness, be employed so many hours in every day, not exceeding ten, exclusive of the time allowed for meals, as shall be directed by the rules and regulations to be made under this Act, except on *Sundays*, *Christmas Day* and *Good Friday*, and on any days appointed by public authority for fasting or thanksgiving.

Ninth:—Prayers, to be selected from the liturgy of the church of *England* by the chaplain, shall be read at least every morning by the chaplain the keeper or by some other person, as by the rules and regulations shall be directed; and portions of the Scriptures shall be read to the prisoners, when assembled for instruction, by the chaplain, or by such person as he may appoint or authorize.

Tenth:—Provision shall be made in all prisons for the instruction of prisoners of both sexes in reading and writing, and that instruction shall be afforded under such rules and regulations, and to such extent, and to such prisoners, as to the visiting justices may seem expedient.

Eleventh:—Prisoners under charge or conviction of any crime shall attend divine service on *Sundays*, and on other days when such service is performed, unless prevented by illness or by other reasonable cause, to be allowed by the keeper, or unless their attendance shall be dispensed with by one of the visiting justices.

Twelfth:—No prisoner shall be put in irons by the keeper of any prison, except in case of urgent and absolute necessity; and the particulars of every such case shall be forthwith entered in the keeper's journal, and notice forthwith given thereof to one of the visiting justices; and the keeper shall not continue the use of irons on any prisoner longer than four days, without an order in writing from a visiting justice, specifying the cause thereof; which order shall be preserved by the keeper, as his warrant for the same.

Thirteenth:—Every prisoner maintained at the expence of any county, riding, division, city, town, or place, shall be allowed a sufficient quantity of plain and wholesome food, to be regulated by the justices in general or quarter sessions assembled, regard being had (so far as may relate to convicted prisoners) to the nature of the labour required from or performed by such prisoners, so that the allowance of food may be duly apportioned thereto. And it shall be lawful for the justices to order for such prisoners of every description, as are not able to work, or being able cannot procure employment sufficient to sustain themselves by their industry, or who may not be otherwise provided for, such allowance of food, as the said justices shall from time to time think necessary for the support of health, Prisoners under the care of the surgeon

No. XIX.

4 Geo. IV.
c. 64.

shall be allowed such diet as he may direct. Care shall be taken that all provisions supplied to the prisoners be of proper quality and weight. Scales and legal weights and measures shall be provided, open to the use of any prisoners, under such restrictions as shall be made by the regulations of each prison.

Fourteenth:—Prisoners who shall not receive any allowance from the county, whether confined for debt or before trial, for any supposed crime or offence, shall be allowed to procure for themselves, and to receive at proper hours, any food, bedding, clothing, or other necessities, subject to a strict examination, and under such limitations and restrictions, to be prescribed by the regulations to be made in manner directed by this Act, as may be reasonable and expedient, to prevent extravagance and luxury within the walls of a prison; all articles of clothing and bedding shall be examined, in order that it may be ascertained that such articles are not likely to communicate infection or facilitate escape.

Fifteenth:—No prisoner who is confined under the sentence of any court, nor any prisoners confined in pursuance of any conviction before a justice, shall receive any food clothing or necessities, other than the gaol allowance, except under such regulations and restrictions as to the justices in general or quarter sessions assembled may appear expedient, with reference to the several classes of prisoners, or under special circumstances, to be judged of by one or more of the visiting justices.

Sixteenth:—Due provision shall be made for the admission, at proper times and under proper restrictions, of persons with whom prisoners committed for trial may desire to communicate; and such rules and regulations shall be made, by the justices in general quarter sessions assembled, for the admission of the friends of convicted prisoners, as to such justices may seem expedient; and the justices shall also impose such restrictions upon the communication and correspondence of all such prisoners with their friends, either within or without the walls of the prison, as they shall judge necessary for the maintenance of good order and discipline in such prison.

Seventeenth:—The surgeon shall examine every prisoner who shall be brought into the prison, before he or she shall be passed into the proper ward: And no prisoner shall be discharged from prison if labouring under any acute or dangerous distemper, nor until, in the opinion of the surgeon, such discharge is safe, unless such prisoner shall require to be discharged. The wearing apparel of every prisoner shall be fumigated and purified, if requisite, after which the same shall be returned to him or her, or in case of the insufficiency of such clothing, then other sufficient clothing shall be furnished, according to the rules and regulations of the prison; but no prisoner before trial shall be compelled to wear a prison dress, unless his or her own clothes be deemed insufficient or improper, or necessary to be preserved for the purposes of justice; and no prisoner who has not been convicted of felony shall be liable to be clothed in a party-coloured dress; but if it be deemed expedient to have a prison dress for prisoners not convicted of felony, the same shall be plain.

Eighteenth:—Every prisoner shall be provided with suitable bedding; and every male prisoner with a separate bed hammock or cot, either in a separate cell, or in a cell with not less than two other male prisoners.

Nineteenth:—The walls and ceilings of the wards, cells, rooms, and passages used by the prisoners throughout every prison, shall be scraped and lime-washed at least once in the year; the day rooms, work rooms, passages, and sleeping cells shall be washed or cleansed once a week, or oftener if requisite. Convenient places for the prisoners to wash themselves shall be provided, with an adequate allowance of soap towels and combs.

Twentieth:—All prisoners shall be allowed as much air and exercise as may be deemed proper for the preservation of their health.

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Twenty-first:—No tap shall be kept in any prison; nor shall spirituous liquors of any kind be admitted for the use of any of the prisoners therein, under any pretence whatever, unless by a written order of the surgeon, specifying the quantity and for whose use. No wine, beer, cyder, or other fermented liquors shall be admitted for the use of any prisoners, except in such quantities, in such manner, and at such times, as shall be allowed by the rules hereafter to be made in pursuance of this Act.

Twenty-second:—No gaming shall be permitted in any prison; and the keeper shall seize and destroy all dice cards or other instruments of gaming.

Twenty-third:—No money under the name of Garnish shall be taken from any prisoner on his or her entrance into the prison, under any pretence whatever.

Twenty-fourth:—Upon the death of a prisoner, notice thereof shall be given by the keeper forthwith to one of the visiting justices, as well as to the coroner of the district, and to the nearest relative of the deceased, where practicable.

XI. And be it further enacted, That in case the coroner shall hold an inquest on the body of any prisoner who shall have died within the prison, none of the prisoners confined in that prison shall be a juror on such inquest.

XII. And be it further enacted, That it shall be lawful for the court of mayor and aldermen of the city of *London*, so far as respects the prisons within the said city and liberties thereof, and for five justices of the peace in general or quarter sessions assembled, of each county riding or division of a county, or of any district, city, town, or place to which this Act shall extend, so far as respects the prisons within their respective jurisdiction, to make such further and additional rules for the government of such prisons respectively, and for the duties to be performed by the officers of the same, as to them may seem expedient; provided, that no such further or additional rules shall be enforced, until the same shall have been submitted, in *London* and *Middlesex*, to the two chief justices, and elsewhere to the justices of gaol delivery or of great sessions respectively, at some gaol delivery or great sessions to be held after the making such rules, and until such chief justice or justices of gaol delivery or of great sessions respectively, shall have subscribed a certificate or declaration that they do not see any thing contrary to law therein: Provided always, that all such rules and regulations shall be consistent with and conformable to the rules and regulations in this Act contained: And the justices in general or quarter sessions assembled shall and they are hereby required from time to time to cause copies of so much of the rules of each prison as relates to the treatment and conduct of prisoners confined therein, to be printed in legible characters, and to be fixed up in conspicuous parts of every prison, so that every prisoner may be enabled to have access thereto; and all rules and regulations made and approved pursuant to the directions of this Act shall be binding upon the sheriff and upon all other persons; provided, that no such rules shall be so construed as to interfere with the right or duty of the sheriff to appoint or remove any keeper of a county gaol or other prison subject to the authority of such sheriff.

XIII. Provided always, and be it enacted, That all the powers and authorities given by this Act to justices of the peace in general or quarter sessions assembled, in the several counties, and all other Acts to be done and performed by justices of the peace at any sessions in pursuance of this Act, shall be exercised and performed, so far as regards the prisons in the city of *London* and liberties thereof, by the court of mayor and aldermen of the said city, as heretofore has been accustomed, and not by the said mayor and aldermen as magistrates at the general or quarter sessions of the peace to be holden in and for the said city; any thing in this Act contained to the contrary thereof in anywise notwithstanding.

No Prisoner to sit on an Inquest.

Court of Mayor and Aldermen, so far as respects City Prisons, and Five Justices in Sessions, may make further Regulations for Prisons.

In *London* and *Middlesex* Rules to be submitted to the Two Chief Justices, and elsewhere to the Justices of Gaol Delivery, &c.

Copies of Rules to be put up in Prisons.

Rules shall bind Sheriffs, except as to Appointment of Gaolers.

Powers of General or Quarter Sessions to be exercised in *London* by the Court of Mayor and Aldermen, as heretofore, &c.

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Gaolers shall attend Quarter Sessions next after Commencement of Act, and future Quarter Sessions, to report on actual State of Prisons, &c.

Copies of Proceedings and Regulations of Justices, and Plans of Prisons, to be transmitted to Secretary of State.

Visiting Justices shall be appointed by Sessions.

Duties of such Visitors.

Visitors may recommend Offenders on account of good Conduct.

XIV. And be it further enacted, That the gaoler and keeper of every gaol and house of correction, maintained at the expence of any county, or of any such riding or division of a county as aforesaid, in *England* and *Wales*, or maintained by any district, city, town, or place specified in the schedule to this Act annexed marked (A.), shall make a report in writing of the actual state and condition of every such gaol and house of correction, and of the number and description of prisoners confined therein, to the justices, at the several general or quarter sessions to be holden next after the commencement of this Act, and at every ensuing general or quarter sessions in every such county, riding, division, district, city, town, or place; and shall at every such general or quarter sessions attend and give answer, upon oath, to all such inquiries as shall be made by the justices at such sessions, with respect to the state and condition of every such gaol and house of correction, and of the prisoners confined therein, and with respect to any other matters and things relating to the said gaol and house of correction, respecting which such justices shall deem it necessary to make any inquiry for the purpose of proceeding and continuing to carry this Act into execution, and of ascertaining how far every such gaol and house of correction is capable of affording the means of the classification required by this Act.

XV. And be it further enacted, That the chairman of the *Michaelmas* quarter sessions of the peace, which shall be held next after the commencement of this Act, for every county, riding, division, district, city, town, or place to which this Act shall extend, shall transmit, within fourteen days after the termination of such session, to one of his Majesty's principal secretaries of state, a true and correct account of their proceedings at such sessions for carrying this Act into effect, and also a copy of all such rules and regulations as shall be then in force for the government of every prison within the jurisdiction of the justices assembled at such sessions, and shall also transmit at the same time, or within three months afterwards, to such secretary of state, plans of all such prisons, drawn upon a scale of one-sixteenth of an inch to a foot; and the said copies and plans shall be carefully preserved in the office of such secretary of state; and the chairman of every such succeeding *Michaelmas* quarter sessions shall transmit, within fourteen days after the termination of such *Michaelmas* quarter sessions, a true and correct copy of all such additions to such rules and regulations, or alterations made therein, as shall have been duly sanctioned since the preceding *Michaelmas* quarter sessions, together with plans, on the scale above mentioned, of any additions to the buildings of such prison, or alterations made in the construction thereof, during the same period.

XVI. And be it further enacted, That the justices in every county, riding, division, district, city, town, or place, to which this Act shall extend, at the general or quarter sessions next after the commencement of this Act, and at every ensuing general or quarter sessions, shall and they are hereby required to nominate two or more justices who shall consent thereto, to be visitors of each gaol and house of correction within their jurisdiction, and to report the names and places of abode of such visiting justices to one of his Majesty's principal secretaries of state; and one or more of the visiting justices so appointed shall personally visit and inspect each prison at least three times in each quarter of a year, and oftener if occasion shall require, and shall examine into the state of the buildings, so as to form a judgment as to the repairs additions or alterations which may appear necessary, strict regard being had to the classification, inspection, instruction, employment, or hard labour, required by this Act, and shall further examine into the behaviour and conduct of the respective officers, and the treatment behaviour and condition of the prisoners, the means of setting them to work, the amount of their earnings, and the expences attending the prison, and of all abuses within the same, and in matters of pressing necessity, and within the powers of their commission as justices, shall take cognizance thereof, and proceed to regulate and redress the same; and if the said visitors shall at any time observe, or be

satisfactorily informed of any extraordinary diligence or merit in any prisoners under their inspection, they shall report the same to the justices of peace for the county, riding, division, district, city, town, or place, at their next or any subsequent general or quarter session to be holden for the county or place in which such prison is situate, in order that such justices may, if they shall think proper, recommend any such offender to the royal mercy, in such degree or upon such terms as to them shall seem meet; and if his Majesty shall thereupon be graciously pleased to shorten the duration of such prisoner's confinement, such prisoner shall, upon his or her discharge, together with necessary clothing, receive such sum of money for his or her subsistence, as the visiting justices for the time being shall think proper; so as such sum shall not exceed twenty shillings, nor be less than five shillings, in case such offender shall have been confined for the space of one year, and so in proportion for any shorter term of confinement; and such sums of money, as also the expence of such clothing, shall be paid out of the county rate, or other rate applicable to the expences of prisons.

XVII. Provided always, and be it enacted, That it shall be lawful for any justice of the peace for any county, riding, or division, district, city, town, or place, at his own free will and pleasure, and without being appointed a visitor, to enter into and examine any prison of such county, riding, division, district, city, town, or place, at such time or times and so often as he shall see fit, and if he shall discover any abuse or abuses therein, he is hereby required to report them in writing at the next general or quarter sessions of the peace, or adjourned sessions, which shall be holden for such county, riding, or division, district, city, town or place; and then and so often as a report of any abuse or abuses in any such prison shall be made by the visiting justices, or either of them, or by any other justice of the peace for such county, riding, or division, district, city, town, or place, the abuse or abuses so reported shall be taken into immediate consideration by the justices of the peace for such county, riding, or division, district, city, town, or place, at the general or quarter sessions at which such report shall be made; and they are hereby required to adopt the most effectual measures for inquiring into and rectifying such abuse or abuses as soon as the nature of the case will allow.

XVIII. Provided also, and be it enacted, That nothing herein contained shall extend or be construed to extend to authorize or empower any visiting or other justice of the peace to converse or hold any intercourse or communication, except as herein-after mentioned, with any person who may be committed by lawful authority to any such gaol or other prison, there to be kept in safe and close confinement; but that, nevertheless, it shall and may be lawful for any visiting justice, so appointed as aforesaid, to visit and inspect, at all times when he shall think proper, the apartment or place in which such person shall be kept or confined in any prison, and also to see such person, and to hear or receive any representation from him or her as to his or her treatment in such prison, and to inquire and examine into the same; any thing herein contained to the contrary thereof notwithstanding.

XIX. And be it further enacted, That the keeper of every gaol and house of correction, to which this Act shall extend, shall, previously to the first day of every assizes great sessions or sessions of gaol delivery, make out a true and just return in writing of all persons in his custody who have been sentenced to hard labour by the court at any previous assizes great sessions or sessions of gaol delivery, specifying in such return the manner in which such sentences have been carried into execution, the particular species of labour in which such prisoners have been employed, and the average number of hours in a day for which such persons so sentenced have been kept to work; which return shall be signed by such keeper, and also by one at least of the visiting justices, who shall add thereto such observations as the case and circumstances may appear to him to require; and such return shall be delivered to the justice of assize and

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Allowance on
their Discharge.

Any Justice
may visit the
Prison, and re-
port Abuses to
the Sessions.

How far this
Power may ex-
tend where
Prisoners are
committed to
close Confinement.

Returns to be
made at the
several Assizes by
Keepers of Pri-
sons of the Per-
sons sentenced
to Hard La-
bour.

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List of Prison-
ers tried for Fel-
ony to be trans-
mitted to Secre-
tary of State by
the Keeper of
every Prison.

Penalty 20l.

Keeper shall
deliver to Court
of Quarter Ses-
sions, a Certifi-
cate how far
Rules have
been observed.

Penalty 10l.

Keeper to make
a Return as in
Schedule (B.)
to the Clerk of
the Peace or his
Deputy previ-
ous to every
Michaelmas Quarter Sessions.

Visiting Magis-
trates to report
the State of the
Gaol to Quar-
ter Sessions.

A General Re-
port to be for-
warded annually
to the Secretary
of State to be
laid before
Parliament.

gaol delivery, and of great sessions, and shall be kept and filed by the proper officer amongst the records of the court.

XX. And be it further enacted, That the keeper of every prison within *England and Wales*, having the custody of prisoners charged with felony, shall, on the second day next after the termination of every session of the peace, session of Oyer and Terminer, or session of gaol delivery, great session, or other session held for the trial of prisoners being in such prison, whether such session shall be held under any commission, or by virtue of any charter or prescription, transmit by the post of that day to one of his Majesty's principal secretaries of state, a calendar containing the names the crimes and the sentences of every prisoner tried at such session, and distinguishing, with respect to all prisoners capitally convicted, such of them as may have been reprieved by the court, and stating the day on which execution is to be done upon those who have not been reprieved; and that whenever the court shall adjourn for any longer time than one week, the day upon which the adjournment shall be made shall be deemed the termination of the session within the meaning of this Act; and every keeper of any such prison, who shall neglect or refuse to transmit such calendar, or shall wilfully transmit a calendar containing any false or imperfect statement, shall for every such offence forfeit the sum of twenty pounds.

XXI. And, for the better insuring the strict observance of the rules and regulations to be made for the government of the prisons to which this Act shall extend, be it enacted, That at each quarter sessions of the peace, the keeper of every prison within the jurisdiction of the court holding such session shall and is hereby required to deliver or cause to be delivered to such court, a certificate, signed by himself, which certificate shall contain a declaration how far the rules laid down for the government of his prison have been complied with, and shall point out any and every deviation therefrom which may have taken place; and if any keeper of a prison shall neglect to deliver, or cause to be delivered, such certificate as aforesaid, he shall forfeit for every such offence the sum of ten pounds.

XXII. And be it further enacted, That one week before the *Michaelmas* session in every year, the keeper of every prison to which this Act shall extend shall make up a return of the state of his prison for the year then ending, in the form contained in the schedule annexed to this Act, marked (B.), and shall deliver the same, or cause the same to be delivered, to the clerk of the peace, or his deputy, for the use of the justices assembled at such quarter session.

XXIII. And be it further enacted, That at every general or quarter sessions, the visiting justices shall make a report in writing of the state and condition of each prison within their jurisdiction, of what repairs additions or alterations shall have been made or may be required, and of any abuse or abuses which they may have observed, or of which they may have received information, in the management of the prison, as well as of the general state of the prisoners, as to morals, discipline, employment, and hard labour, and observance of rules; and the justices assembled at such sessions shall proceed to consider every such report, and to act forthwith as they may see occasion.

XXIV. And be it further enacted, That a general report, founded on the report of the visiting justices, on the report of the chaplain or chaplains, and on the certificates of the keepers of the several prisons, shall be prepared by the clerk of the peace, and submitted to the justices assembled at every *Michaelmas* quarter sessions; and when approved by the justices at such sessions, such report shall be signed by the chairman of such sessions, and shall be by him transmitted (together with a copy of the schedule (B.) delivered by the gaoler) to one of his Majesty's principal secretaries of state; a copy of which report, with the said schedule attached to it, shall be laid before both houses of Parliament, within one month next ensuing, if Parliament shall be sitting, or within one month after the time when Parliament shall next sit.

XXV. And be it further enacted, That it shall and may be lawful for the justices assembled at the general or quarter sessions, and they are hereby empowered and required, to nominate and appoint such keepers, matrons, taskmasters, schoolmasters, and other officers, as to them may seem expedient, for every prison within their jurisdiction to which this Act shall extend, except the keeper of the common gaol; and to remove, as occasion may require, all officers so by them nominated and appointed: Provided always, that no woman shall be keeper of any prison in which male prisoners are confined.

XXVI. And be it further enacted, That it shall and may be lawful for the justices assembled at the general or quarter sessions, and they are hereby empowered to fix salaries and allowances, to such amount, and subject to such conditions as to them shall seem meet, for the keeper of the common gaol, and for every keeper, matron, taskmaster, schoolmaster, and officer of each gaol and house of correction within their jurisdiction; and to order such salaries, and the expences of such allowances, to be paid out of the rate lawfully applicable thereto; and the salaries and allowances so fixed, to alter, reduce, augment, suspend, or stop from time to time, as occasion shall require: And in case any gaoler or keeper of any prison shall, from confirmed sickness age or infirmity become incapable of executing the office in person, the justices of the peace at any general or quarter sessions of the county, riding, division, district, city, town, or place respectively, shall take the circumstances of the case into their consideration; and if such justices shall deem it expedient, they are hereby empowered to grant to such gaoler or keeper such an annuity as they in their discretion shall think proportioned to the merits and time of his service, and may order the payment thereof out of the rates lawfully applicable to the building or repairing of such gaols and prisons: Provided always, that the annual amount paid by way of superannuation or allowance to any retired keeper of any prison, shall not exceed the amount of two-thirds of the salary fixed for the succeeding keeper of such prison.

XXVII. And be it further enacted, That whenever the keeper or any other officer of any common gaol or other prison to which this Act shall extend, shall be removed from or resign his or her office, or shall depart this life, every keeper or other officer so removed or resigning, and his or her family, and the family of every such deceased keeper or other officer, shall forthwith quit the possession of the house or apartments in which he she or they shall have previously resided by virtue of such office; and that if any keeper or other officer so removed or resigning, or any members of the family of any keeper or other officer so removed resigning or departing this life, shall refuse or neglect to quit such possession for forty-eight hours after notice given to him her or them in writing, by the under-sheriff, or other officer appointed by the sheriff, in case the house or apartments of which possession shall be required shall be in the common gaol, and by the clerk of the peace in case such house or apartments shall be in any house of correction, any two justices, upon proof made before them of such removal resignation or death, and of the service of such notice, and of such neglect or refusal to comply therewith, may by warrant under their hands and seals, direct the sheriff of the county, or other officer having the return of writs, to eject such keeper, or the family of such keeper, out of such house or apartments, and the sheriff or such other officer shall accordingly clear the possession thereof in like manner as upon a writ of *habere facias possessionem*.

XXVIII. And be it further enacted, That the justices assembled in general or quarter sessions shall and they are hereby required from time to time to nominate for each prison within their jurisdiction, to which this Act shall extend, a clergyman of the church of *England* to be chaplain thereof; and the said justices may, if it seem to them expedient, nominate the same clergyman to be and officiate as chaplain to any two prisons situate within a convenient distance from each other; and the said justices are hereby authorized to appoint a salary to be paid to the clergyman so nominated chaplain as aforesaid, out of the county rate, or rate lawfully applicable to the maintenance of such prisons; and the

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c. 64.

Justices may
appoint Keepers
and other
Officers.

Keeper of the
Gaol excepted.

Justices to fix
Salaries of
Keepers, &c.

Gaoler may be
superannuated,
and allowed a
Pension.

When Keeper
or other Officer
shall be remov-
ed or resign,
&c., Two Jus-
tices may direct
the Sheriff to
eject them from
Apartments in
the Prison.

Justices may
appoint a Cler-
gyman to each
Prison.

His Salary.

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Where Two
Prisons have
One Keeper,
they shall be
considered as
one with respect
to the Duties
and Salary of
the Chaplain.
Clergymen not
to officiate till
licensed by the
Bishop.

Duties of Chap-
lains.

Journal to be
kept by them.

amount of salary shall be regulated in the following manner; *videlicet*, where the chaplain shall be appointed to one prison only, and the number of prisoners, including debtors, which the said prison is calculated to receive does not exceed fifty, then the salary to be paid to him shall not be more than one hundred and fifty pounds; where the chaplain shall be appointed to one prison only, and the number of prisoners, including debtors, which the said prison is calculated to receive does not exceed one hundred, then the salary shall not be more than two hundred pounds; where the chaplain shall be appointed to one prison only, calculated to contain more than one hundred prisoners, including debtors, the salary shall not be more than two hundred and fifty pounds; and where the chaplain shall be appointed to one prison only, calculated to contain more than two hundred, or where the chaplain shall be appointed to two prisons, whatever the number of prisoners such two prisons may be calculated to contain, it shall be lawful for the justices to appoint the salary at their discretion, with reference to the duties to be performed: Provided also, that when any two or more prisons shall be under the custody of one and the same keeper, they shall be considered as one prison, with reference to the duties and salary of the chaplain: Provided also, that in case of sickness or necessary engagement, the chaplain shall appoint a clergyman to be his substitute for the occasion, such substitute being approved of by the visiting justices; and the name and residence of such substitute shall be specified in the chaplain's journal.

XXIX. And be it further enacted, That no clergyman so nominated shall officiate in any prison until he shall have obtained a licence for that purpose from the bishop of the diocese wherein the prison is situate, nor for any longer time than while such licence shall continue in force; and notice of every such nomination shall, within one month after it shall take place, be transmitted to the bishop by the clerk of the peace or town clerk.

XXX. And be it further enacted, That every such chaplain shall on every Sunday, and on Christmas Day and Good Friday, perform the appointed morning and evening services of the church of England, and preach at such time or times between the hours of nine and five of the day, as shall be required by the rules and regulations to be made as directed by this Act; and shall catechise or instruct such prisoners as may be willing to receive instruction; and shall likewise visit the prison on such other days, and perform such other duties as shall be required by the rules and regulations to be made as directed by this Act; and shall administer the holy sacrament of the Lord's Supper to such prisoners as shall be desirous, and as such chaplain may deem to be in a proper frame of mind to receive the same; and such chaplain shall also frequently visit every room and cell in the prison occupied by prisoners, and shall direct such books to be distributed and read, and such lessons to be taught in such prison, as he may deem proper for the religious and moral instruction of the prisoners therein; and he shall visit those who are in solitary confinement; and it shall be his particular duty to afford his spiritual assistance to all persons under warrant or order for execution; and he shall have free access to all persons convicted of murder, any law statute or usage to the contrary notwithstanding; except to such persons as shall be of a religious persuasion different from that of the established church, who shall have made a request that a minister of such persuasion shall be allowed to visit them; and every such chaplain shall communicate from time to time to the visiting justices any abuse or impropriety which may have come to his knowledge; and he shall further keep a journal, in which he shall enter the times of his attendance on the performance of his duty, with any observations which may occur to him in the execution thereof, and such journal shall be kept in the prison, but shall regularly be laid before the justices for their inspection at every quarter sessions, and shall be signed by the chairman of the sessions, in proof of the same having been there produced; and if it shall appear to the justices in general or quarter sessions assembled, that any chaplain is incompetent to the due performance of his duties, or is unfit to be con-

tinued in his office, or shall have refused or wilfully neglected to perform the duties required of him by the rules and regulations to be made as directed by this Act, they are hereby empowered to remove him from such office.

XXXI. And be it further enacted, That if any prisoner shall be of a religious persuasion differing from that of the established church, a minister of such persuasion, at the special request of such prisoner, shall be allowed to visit him or her at proper and reasonable times, under such restrictions imposed by the visiting justices as shall guard against the introduction of improper persons, and as shall prevent improper communications.

XXXII. And be it enacted, That in case any chaplain shall from confirmed sickness age or infirmity, become incapable of executing the office in person, the justices of the peace, at any general or quarter sessions of the county, riding, division, district, city, town, or place respectively, shall take the circumstances of the case into their consideration; and if such justices shall deem it expedient, they are hereby empowered to grant to such chaplain such annuity as they in their discretion shall think proportionate to the merits and time of his services, and may order the payment out of the rates lawfully applicable to the building and repairing such gaols and prisons: Provided always, that the amount so paid by way of superannuation or allowance to any retired chaplain of any one prison, shall not exceed the amount of two thirds of the salary fixed for the succeeding chaplain of such prison.

XXXIII. And be it further enacted, That the justices in general or quarter sessions assembled shall and they are hereby required from time to time to appoint a surgeon, being a member of one of the royal colleges of surgeons, to each of the prisons within their jurisdiction to which this Act shall extend; and every such surgeon shall and is hereby required to visit every prison to which he shall be so appointed twice at least in every week, and oftener if necessary, and to see every prisoner confined therein, whether criminal or debtor, and to report to every general or quarter sessions the condition of the prison, and the state of health of the prisoners under his care; and he shall further keep a journal, in which he shall enter the date of every attendance on the performance of his duty, with any observations which may occur to him in the execution thereof, and shall sign the same with his name; and such journal shall be kept in the prison, but shall regularly be laid before the justices for their inspection at every quarter sessions, and shall be signed by the chairman of the sessions, in proof of the same having been there produced; and it shall and may be lawful for the justices, at every general or quarter sessions after such appointment, to direct a reasonable sum to be paid as salary to such surgeon, and also such sums of money as shall be due for medicines, and other articles for the sick.

XXXIV. And be it further enacted, That from and after the commencement of this Act, there shall be kept in every prison to which this Act shall extend, a book, in which the chaplain and every other officer of the said prisons not residing within such prisons, but attending on or required to attend on such prison, shall regularly insert the date of every visit made by such chaplain or other such officer respectively; and every such entry shall be signed with the name and in the proper handwriting of such chaplain or other officer respectively, and shall contain such remarks as may be thought necessary on the occasion of any such visit; and every keeper of every such prison shall be responsible for the safe custody of such book, whole unmutated and unaltered, and shall at all times, when required so to do, produce such book for inspection to the justices at every general or quarter sessions, and to the visiting justices, or to any justice of the peace for the county, riding, division, district, city, town, or place wherein such prison shall be situate; and the chaplain shall, on every *Michaelmas* quarter sessions, deliver to the justices a statement of the condition of the prisoners and his observations thereupon.

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Ministers allowed to visit other Prisoners, under certain Restrictions.

Power to Quarter Sessions to grant Annuity to any Chaplain incapable, from Infirmary, of executing his Office.

Appointment of Surgeons.

Journal to be kept by them.

Book to be kept in which Visits of Chaplain, &c, shall be entered.

No. XIX.

4 Geo. IV.
c. 64.

In what manner
Bequests and
Benefactions
may be applied.

Chief Justices,
&c., to examine
into Gifts for
Prisoners.

Lists of Gifts to
be registered by
the Clerks of
the Peace, and
hung up in
Gaols.

In what Cases
Persons com-
mitted for Trial
may be employ-
ed in Work.

Not to place to-
gether in Work
any Prisoners
who should be kept separate.

Justices may
employ Pri-
soners.

XXXV. And whereas provision is made in this Act for supplying poor prisoners with food and clothing: And whereas bequests have been made, and benefactions have been given, for supplying such poor criminal prisoners with these necessities: Be it therefore enacted, That it shall and may be lawful for the justices in general or quarter sessions assembled, to apply such bequests or benefactions for the benefit of such poor prisoners, either by providing them with the implements of labour, or with the means of returning to their own homes, or in such manner as to the magistrates may appear expedient.

XXXVI. And be it further enacted, That the chief justices of the Courts of King's Bench and Common Pleas, and the chief baron of the Court of Exchequer, or any one of them, together with the lord mayor and two of the aldermen, or with three of the aldermen of the city of London, for and in respect of the gaols and prisons within the city of London and the liberties thereof, and the said chief justices or chief baron, or any one of them, with three justices of the peace of the counties of *Middlesex* and *Surrey* respectively, for and in respect of the gaols and prisons in the counties of *Middlesex* and *Surrey*, and the justices of gaol delivery and great sessions, and the justices of peace of every other county riding and division of a county, at any general or quarter session of the peace to be holden for such county riding or division respectively, in their respective jurisdictions, and all commissioners for charitable uses, shall do their best endeavours and diligence to examine and discover the several gifts legacies and bequests bestowed and given for the benefit and advantages of the poor prisoners in the several gaols and prisons to which this Act shall extend, and to send for any deeds, wills, writings, and books of account whatsoever, and any persons concerned therein, and to examine them upon oath to make true discovery thereof (and which such chief justices, chief barons, justices of gaol delivery and great sessions, mayor, aldermen, and justices of the peace, have hereby full power and authority to do), and to order and settle the payment recovery and receipt of all such gifts legacies and bequests, when so discovered and ascertained, in such easy and expeditious manner, that the prisoners for the future may not be defrauded, but receive the full benefit thereof, according to the true intent of the donors, or the provisions of this Act; and that lists or tables of such gifts legacies and bequests, for the benefit of the prisoners in every gaol or prison respectively, fairly written, shall be registered by the clerks of the peace of the respective counties and places in the rolls of their respective sessions, without fee or reward, and copies thereof shall be hung up in such gaols and prisons respectively, in some open room or place, to which the prisoners may have resort as occasion shall require.

XXXVII. And whereas persons are often committed to prison for trial, who are willing to be employed in such work or labour as can be conveniently executed or done in the prison to which they are so committed, and it is fit that such persons should be so employed rather than that they should be obliged to remain idle during their confinement; be it therefore enacted, That it shall and may be lawful for any one or more visiting justice or justices of any prison to which this Act shall extend, to authorize, by an order in writing, the employment of any such prisoners, with their own consent, in any such work or labour; and it shall be lawful for the keeper of such prison to employ such prisoner in such work or labour accordingly, and to pay to such prisoners any such wages or portion of the same, and at such periods, as shall be directed by such justice or justices: Provided always, that it shall not be lawful to place together, on account of such employment, any prisoners who would otherwise be kept separate under the provisions of this Act.

XXXVIII. And whereas persons convicted of offences are frequently sentenced to imprisonment without being sentenced to hard labour; be it therefore enacted, That it shall be lawful for two or more visiting justices of any prison, to order that all such persons confined in such prison,

in pursuance of any sentence or conviction, except such prisoners as shall maintain themselves, shall be set to some work or labour not severe: And it is hereby declared, that no such prisoner, who shall be of ability to earn, and who shall have the means of earning or of otherwise providing for his own subsistence, shall have any claim to be supported at the expence of the county riding or division, or by the sheriff or the keeper of the prison; provided that when such ability shall cease by reason of sickness, infirmity, the want of sufficient work, or from any other cause, every such person shall, during the continuance of his inability, receive such provision and support as shall be directed for other convicted prisoners in the same prison; and the keeper of every such prison shall keep an account of the work done by every prisoner so set to work as aforesaid, and shall account to such prisoner for so much of the net profits which such prisoner shall have earned, or for such daily or other allowance for the work and labour done by such prisoner, as shall be directed either by the rules and regulations of such prison, or in case of no provision being made on this head by those rules and regulations, then for such part of the said net profits, or for such daily or other allowance as shall be directed by the visiting justices, and shall pay the amount of all accumulations of such allowance to such prisoner at his or her discharge.

XXXIX. And whereas it is desirable that prisoners discharged from prison should be supplied with the means of returning to their families, or to their place of settlement, or to some place of employment, where they may be engaged in a life of honest labour for their maintenance, and prevented from pursuing evil courses; be it therefore enacted, That it shall and may be lawful for any one or more of the visiting justice or justices of any prison to which this Act shall extend, from whence any prisoner shall be discharged, to direct that such moderate sum of money shall be given and paid to any and every such prisoner so discharged, who shall not have the means of returning to his or her family or place of settlement, or resorting to any place of employment or honest occupation, as in the judgment of such justice or justices shall be requisite and necessary for such purpose, under all the circumstances attending the case of any such prisoner; and that such sum of money shall be paid by the keeper of such prison to or for the use of such prisoner, for the purpose aforesaid; and that all such sums shall be provided for, either out of such bequests or benefactions as aforesaid, or in such manner as is by this Act directed with respect to the expence of the support and maintenance of the prisoners in such prisons respectively.

XL. And be it further enacted, That if any person, in contravention of the existing rules, shall carry or bring, or attempt or endeavour to carry or bring into any prison to which this Act shall extend, any spirituous or fermented liquor, it shall be lawful for the gaoler, keeper, turnkey, or any other of the assistants to the said gaoler or keeper, to apprehend or cause to be apprehended such offender, and to carry him or her before a justice of the peace (who is hereby empowered to hear and determine such offence in a summary way), and if he shall lawfully convict such person of such offence, he shall forthwith commit such offender to the common gaol or house of correction, there to be kept in custody for any time not exceeding three months, without bail or mainprize, unless such offender shall immediately pay down such sum of money not exceeding twenty pounds, and not less than ten pounds, as the justice shall impose upon such offender to be paid, one moiety to the informer, and the other moiety in aid of the rate applicable to the maintenance of such prison; and if any justice shall receive information upon oath, that any spirituous or fermented liquor is unlawfully kept or disposed of in any prison, he may enter and search, or issue his warrant to enter and search for such liquor; and in case it shall be found, it shall be lawful for the person so finding to seize the same, and cause it to be disposed of as the justice shall direct; and if any gaoler or keeper of any prison shall sell, use, lend, or give away, or knowingly permit or suffer to be sold, used, lent, or given away, in such prison, or brought into the same, any spirituous or fermented liquor, in contravention of the existing rules of such prison, he shall for every such

No. XIX.

4 Geo. IV.
c. 64.

Where there is Ability to earn, no Claim for Support from the County.

Account of Work done to be kept by the Keeper.

Allowance to be made for the Work done.

For supplying to Prisoners discharged from Prison the Means of returning to their Home, &c.

Punishment for carrying Spirituous Liquors into Prisons.

Penalty on Gaoler permitting the Sale of such Spirits.

No. XIX.

4 Geo. IV.
c. 64.

Gaolers shall attend Quarter Sessions next after Commencement of Act, and future Quarter Sessions, to report on actual State of Prisons, &c.

Copies of Proceedings and Regulations of Justices, and Plans of Prisons, to be transmitted to Secretary of State.

Visiting Justices shall be appointed by Sessions.

Duties of such Visitors.

XIV. And be it further enacted, That the gaoler and keeper of every gaol and house of correction, maintained at the expence of any county, or of any such riding or division of a county as aforesaid, in *England* and *Wales*, or maintained by any district, city, town, or place specified in the schedule to this Act annexed marked (A.), shall make a report in writing of the actual state and condition of every such gaol and house of correction, and of the number and description of prisoners confined therein, to the justices, at the several general or quarter sessions to be holden next after the commencement of this Act, and at every ensuing general or quarter sessions in every such county, riding, division, district, city, town, or place; and shall at every such general or quarter sessions attend and give answer, upon oath, to all such inquiries as shall be made by the justices at such sessions, with respect to the state and condition of every such gaol and house of correction, and of the prisoners confined therein, and with respect to any other matters and things relating to the said gaol and house of correction, respecting which such justices shall deem it necessary to make any inquiry for the purpose of proceeding and continuing to carry this Act into execution, and of ascertaining how far every such gaol and house of correction is capable of affording the means of the classification required by this Act.

XV. And be it further enacted, That the chairman of the *Michaelmas* quarter sessions of the peace, which shall be held next after the commencement of this Act, for every county, riding, division, district, city, town, or place to which this Act shall extend, shall transmit, within fourteen days after the termination of such session, to one of his Majesty's principal secretaries of state, a true and correct account of their proceedings at such sessions for carrying this Act into effect, and also a copy of all such rules and regulations as shall be then in force for the government of every prison within the jurisdiction of the justices assembled at such sessions, and shall also transmit at the same time, or within three months afterwards, to such secretary of state, plans of all such prisons, drawn upon a scale of one-sixteenth of an inch to a foot; and the said copies and plans shall be carefully preserved in the office of such secretary of state; and the chairman of every such succeeding *Michaelmas* quarter sessions shall transmit, within fourteen days after the termination of such *Michaelmas* quarter sessions, a true and correct copy of all such additions to such rules and regulations, or alterations made therein, as shall have been duly sanctioned since the preceding *Michaelmas* quarter sessions, together with plans, on the scale above mentioned, of any additions to the buildings of such prison, or alterations made in the construction thereof, during the same period.

XVI. And be it further enacted, That the justices in every county, riding, division, district, city, town, or place, to which this Act shall extend, at the general or quarter sessions next after the commencement of this Act, and at every ensuing general or quarter sessions, shall and they are hereby required to nominate two or more justices who shall consent thereto, to be visitors of each gaol and house of correction within their jurisdiction, and to report the names and places of abode of such visiting justices to one of his Majesty's principal secretaries of state; and one or more of the visiting justices so appointed shall personally visit and inspect each prison at least three times in each quarter of a year, and oftener if occasion shall require, and shall examine into the state of the buildings, so as to form a judgment as to the repairs additions or alterations which may appear necessary, strict regard being had to the classification, inspection, instruction, employment, or hard labour, required by this Act, and shall further examine into the behaviour and conduct of the respective officers, and the treatment behaviour and condition of the prisoners, the means of setting them to work, the amount of their earnings, and the expences attending the prison, and of all abuses within the same, and in matters of pressing necessity, and within the powers of their commission as justices, shall take cognizance thereof, and proceed to regulate and redress the same; and if the said visitors shall at any time observe, or be

Visitors may re- and Offenders on account of good Conduct.

satisfactorily informed of any extraordinary diligence or merit in any prisoners under their inspection, they shall report the same to the justices of peace for the county, riding, division, district, city, town, or place, at their next or any subsequent general or quarter session to be holden for the county or place in which such prison is situate, in order that such justices may, if they shall think proper, recommend any such offender to the royal mercy, in such degree or upon such terms as to them shall seem meet; and if his Majesty shall thereupon be graciously pleased to shorten the duration of such prisoner's confinement, such prisoner shall, upon his or her discharge, together with necessary clothing, receive such sum of money for his or her subsistence, as the visiting justices for the time being shall think proper; so as such sum shall not exceed twenty shillings, not be less than five shillings, in case such offender shall have been confined for the space of one year, and so in proportion for any shorter term of confinement; and such sums of money, as also the expence of such clothing, shall be paid out of the county rate, or other rate applicable to the expences of prisons.

XVII. Provided always, and be it enacted, That it shall be lawful for any justice of the peace for any county, riding, or division, district, city, town, or place, at his own free will and pleasure, and without being appointed a visitor, to enter into and examine any prison of such county, riding, division, district, city, town, or place, at such time or times and so often as he shall see fit, and if he shall discover any abuse or abuses therein, he is hereby required to report them in writing at the next general or quarter sessions of the peace, or adjourned sessions, which shall be holden for such county, riding, or division, district, city, town or place; and then and so often as a report of any abuse or abuses in any such prison shall be made by the visiting justices, or either of them, or by any other justice of the peace for such county, riding, or division, district, city, town, or place, the abuse or abuses so reported shall be taken into immediate consideration by the justices of the peace for such county, riding, or division, district, city, town, or place, at the general or quarter sessions at which such report shall be made; and they are hereby required to adopt the most effectual measures for inquiring into and rectifying such abuse or abuses as soon as the nature of the case will allow.

XVIII. Provided also, and be it enacted, That nothing herein contained shall extend or be construed to extend to authorize or empower any visiting or other justice of the peace to converse or hold any intercourse or communication, except as herein-after mentioned, with any person who may be committed by lawful authority to any such gaol or other prison, there to be kept in safe and close confinement; but that, nevertheless, it shall and may be lawful for any visiting justice, so appointed as aforesaid, to visit and inspect, at all times when he shall think proper, the apartment or place in which such person shall be kept or confined in any prison, and also to see such person, and to hear or receive any representation from him or her as to his or her treatment in such prison, and to inquire and examine into the same; any thing herein contained to the contrary thereof notwithstanding.

XIX. And be it further enacted, That the keeper of every gaol and house of correction, to which this Act shall extend, shall, previously to the first day of every assizes great sessions or sessions of gaol delivery, make out a true and just return in writing of all persons in his custody who have been sentenced to hard labour by the court at any previous assizes great sessions or sessions of gaol delivery, specifying in such return the manner in which such sentences have been carried into execution, the particular species of labour in which such prisoners have been employed, and the average number of hours in a day for which such persons so sentenced have been kept to work; which return shall be signed by such keeper, and also by one at least of the visiting justices, who shall add thereto such observations as the case and circumstances may appear to him to require; and such return shall be delivered to the justice of assize and

No. XIX.
4 Geo. IV.
c. 64.

Allowance on
their Discharge.

Any Justice
may visit the
Prison, and re-
port Abuses to
the Sessions.

How far this
Power may ex-
tend where
Prisoners are
committed to
close Confinement.

Returns to be
made at the
several Assizes by
Keepers of Pri-
sons of the Per-
sons sentenced
to Hard La-
bour.

No. XIX.

4 Geo. IV.

c. 64.

List of Prisoners tried for Felony to be transmitted to Secretary of State by the Keeper of every Prison.

Penalty 20*l*.

Keeper shall deliver to Court of Quarter Sessions, a Certificate how far Rules have been observed.

Penalty 10*l*.

Keeper to make a Return as in Schedule (B.) to the Clerk of the Peace or his Deputy previous to every Michaelmas Quarter Sessions.

Visiting Magistrates to report the State of the Gaol to Quarter Sessions.

A General Report to be forwarded annually to the Secretary of State to be laid before Parliament.

gaol delivery, and of great sessions, and shall be kept and filed by the proper officer amongst the records of the court.

XX. And be it further enacted, That the keeper of every prison within *England* and *Wales*, having the custody of prisoners charged with felony, shall, on the second day next after the termination of every session of the peace, session of Oyer and Terminer, or session of gaol delivery, great session, or other session held for the trial of prisoners being in such prison, whether such session shall be held under any commission, or by virtue of any charter or prescription, transmit by the post of that day to one of his Majesty's principal secretaries of state, a calendar containing the names the crimes and the sentences of every prisoner tried at such session, and distinguishing, with respect to all prisoners capitally convicted, such of them as may have been reprieved by the court, and stating the day on which execution is to be done upon those who have not been reprieved; and that whenever the court shall adjourn for any longer time than one week, the day upon which the adjournment shall be made shall be deemed the termination of the session within the meaning of this Act; and every keeper of any such prison, who shall neglect or refuse to transmit such calendar, or shall wilfully transmit a calendar containing any false or imperfect statement, shall for every such offence forfeit the sum of twenty pounds.

XXI. And, for the better insuring the strict observance of the rules and regulations to be made for the government of the prisons to which this Act shall extend, be it enacted, That at each quarter sessions of the peace, the keeper of every prison within the jurisdiction of the court holding such session shall and is hereby required to deliver or cause to be delivered to such court, a certificate, signed by himself, which certificate shall contain a declaration how far the rules laid down for the government of his prison have been complied with, and shall point out any and every deviation therefrom which may have taken place; and if any keeper of a prison shall neglect to deliver, or cause to be delivered, such certificate as aforesaid, he shall forfeit for every such offence the sum of ten pounds.

XXII. And be it further enacted, That one week before the *Michaelmas* session in every year, the keeper of every prison to which this Act shall extend shall make up a return of the state of his prison for the year then ending, in the form contained in the schedule annexed to this Act, marked (B.), and shall deliver the same, or cause the same to be delivered, to the clerk of the peace, or his deputy, for the use of the justices assembled at such quarter session.

XXIII. And be it further enacted, That at every general or quarter sessions, the visiting justices shall make a report in writing of the state and condition of each prison within their jurisdiction, of what repairs additions or alterations shall have been made or may be required, and of any abuse or abuses which they may have observed, or of which they may have received information, in the management of the prison, as well as of the general state of the prisoners, as to morals, discipline, employment, and hard labour, and observance of rules; and the justices assembled at such sessions shall proceed to consider every such report, and to act forthwith as they may see occasion.

XXIV. And be it further enacted, That a general report, founded on the report of the visiting justices, on the report of the chaplain or chaplains, and on the certificates of the keepers of the several prisons, shall be prepared by the clerk of the peace, and submitted to the justices assembled at every *Michaelmas* quarter sessions; and when approved by the justices at such sessions, such report shall be signed by the chairman of such sessions, and shall be by him transmitted (together with a copy of the schedule (B.) delivered by the gaoler) to one of his Majesty's principal secretaries of state; a copy of which report, with the said schedule attached to it, shall be laid before both houses of Parliament, within one month next ensuing, if Parliament shall be sitting, or within one month after the time when Parliament shall next sit.

XXV. And be it further enacted, That it shall and may be lawful for the justices assembled at the general or quarter sessions, and they are hereby empowered and required, to nominate and appoint such keepers, matrons, taskmasters, schoolmasters, and other officers, as to them may seem expedient, for every prison within their jurisdiction to which this Act shall extend, except the keeper of the common gaol; and to remove, as occasion may require, all officers so by them nominated and appointed: Provided always, that no woman shall be keeper of any prison in which male prisoners are confined.

XXVI. And be it further enacted, That it shall and may be lawful for the justices assembled at the general or quarter sessions, and they are hereby empowered to fix salaries and allowances, to such amount, and subject to such conditions as to them shall seem meet, for the keeper of the common gaol, and for every keeper, matron, taskmaster, schoolmaster, and officer of each gaol and house of correction within their jurisdiction; and to order such salaries, and the expences of such allowances, to be paid out of the rate lawfully applicable thereto; and the salaries and allowances so fixed, to alter, reduce, augment, suspend, or stop from time to time, as occasion shall require: And in case any gaoler or keeper of any prison shall, from confirmed sickness age or infirmity become incapable of executing the office in person, the justices of the peace at any general or quarter sessions of the county, riding, division, district, city, town, or place respectively, shall take the circumstances of the case into their consideration; and if such justices shall deem it expedient, they are hereby empowered to grant to such gaoler or keeper such an annuity as they in their discretion shall think proportioned to the merits and time of his service, and may order the payment thereof out of the rates lawfully applicable to the building or repairing of such gaols and prisons: Provided always, that the annual amount paid by way of superannuation or allowance to any retired keeper of any prison, shall not exceed the amount of two-thirds of the salary fixed for the succeeding keeper of such prison.

XXVII. And be it further enacted, That whenever the keeper or any other officer of any common gaol or other prison to which this Act shall extend, shall be removed from or resign his or her office, or shall depart this life, every keeper or other officer so removed or resigning, and his or her family, and the family of every such deceased keeper or other officer, shall forthwith quit the possession of the house or apartments in which he she or they shall have previously resided by virtue of such office; and that if any keeper or other officer so removed or resigning, or any members of the family of any keeper or other officer so removed resigning or departing this life, shall refuse or neglect to quit such possession for forty-eight hours after notice given to him her or them in writing, by the under-sheriff, or other officer appointed by the sheriff, in case the house or apartments of which possession shall be required shall be in the common gaol, and by the clerk of the peace in case such house or apartments shall be in any house of correction, any two justices, upon proof made before them of such removal resignation or death, and of the service of such notice, and of such neglect or refusal to comply therewith, may by warrant under their hands and seals, direct the sheriff of the county, or other officer having the return of writs, to eject such keeper, or the family of such keeper, out of such house or apartments, and the sheriff or such other officer shall accordingly clear the possession thereof in like manner as upon a writ of *habere facias possessionem*.

XXVIII. And be it further enacted, That the justices assembled in general or quarter sessions shall and they are hereby required from time to time to nominate for each prison within their jurisdiction, to which this Act shall extend, a clergyman of the church of *England* to be chaplain thereof; and the said justices may, if it seem to them expedient, nominate the same clergyman to be and officiate as chaplain to any two prisons situate within a convenient distance from each other; and the said justices are hereby authorized to appoint a salary to be paid to the clergyman so nominated chaplain as aforesaid, out of the county rate, or rate lawfully applicable to the maintenance of such prisons; and the

No. XIX.

4 Geo. IV.

c. 64.

Justices may appoint Keepers and other Officers.

Keeper of the Gaol excepted.

Justices to fix Salaries of Keepers, &c.

Gaoler may be superannuated, and allowed a Pension.

When Keeper or other Officer shall be removed or resign, &c., Two Justices may direct the Sheriff to eject them from Apartments in the Prison.

Justices may appoint a Clergyman to each Prison.

His Salary.

No. XIX.

4 Geo. IV.

c. 64.

Where Two
Prisons have
One Keeper,
they shall be
considered as
one with respect
to the Duties
and Salary of
the Chaplain.

Clergymen not
to officiate till
licensed by the
Bishop.

Duties of Chap-
lains.

Journal to be
kept by them.

amount of salary shall be regulated in the following manner; *videlicet*, where the chaplain shall be appointed to one prison only, and the number of prisoners, including debtors, which the said prison is calculated to receive does not exceed fifty, then the salary to be paid to him shall not be more than one hundred and fifty pounds; where the chaplain shall be appointed to one prison only, and the number of prisoners, including debtors, which the said prison is calculated to receive does not exceed one hundred, then the salary shall not be more than two hundred pounds; where the chaplain shall be appointed to one prison only, calculated to contain more than one hundred prisoners, including debtors, the salary shall not be more than two hundred and fifty pounds; and where the chaplain shall be appointed to one prison only, calculated to contain more than two hundred, or where the chaplain shall be appointed to two prisons, whatever the number of prisoners such two prisons may be calculated to contain, it shall be lawful for the justices to appoint the salary at their discretion, with reference to the duties to be performed: Provided also, that when any two or more prisons shall be under the custody of one and the same keeper, they shall be considered as one prison, with reference to the duties and salary of the chaplain: Provided also, that in case of sickness or necessary engagement, the chaplain shall appoint a clergyman to be his substitute for the occasion, such substitute being approved of by the visiting justices; and the name and residence of such substitute shall be specified in the chaplain's journal.

XXIX. And be it further enacted, That no clergyman so nominated shall officiate in any prison until he shall have obtained a licence for that purpose from the bishop of the diocese wherein the prison is situate, nor for any longer time than while such licence shall continue in force; and notice of every such nomination shall, within one month after it shall take place, be transmitted to the bishop by the clerk of the peace or town clerk.

XXX. And be it further enacted, That every such chaplain shall on every Sunday, and on Christmas Day and Good Friday, perform the appointed morning and evening services of the church of England, and preach at such time or times between the hours of nine and five of the day, as shall be required by the rules and regulations to be made as directed by this Act; and shall catechise or instruct such prisoners as may be willing to receive instruction; and shall likewise visit the prison on such other days, and perform such other duties as shall be required by the rules and regulations to be made as directed by this Act; and shall administer the holy sacrament of the Lord's Supper to such prisoners as shall be desirous, and as such chaplain may deem to be in a proper frame of mind to receive the same; and such chaplain shall also frequently visit every room and cell in the prison occupied by prisoners, and shall direct such books to be distributed and read, and such lessons to be taught in such prison, as he may deem proper for the religious and moral instruction of the prisoners therein; and he shall visit those who are in solitary confinement; and it shall be his particular duty to afford his spiritual assistance to all persons under warrant or order for execution; and he shall have free access to all persons convicted of murder, any law statute or usage to the contrary notwithstanding; except to such persons as shall be of a religious persuasion different from that of the established church, who shall have made a request that a minister of such persuasion shall be allowed to visit them; and every such chaplain shall communicate from time to time to the visiting justices any abuse or impropriety which may have come to his knowledge; and he shall further keep a journal, in which he shall enter the times of his attendance on the performance of his duty, with any observations which may occur to him in the execution thereof, and such journal shall be kept in the prison, but shall regularly be laid before the justices for their inspection at every quarter sessions, and shall be signed by the chairman of the sessions, in proof of the same having been there produced; and if it shall appear to the justices in general or quarter sessions assembled, that any chaplain is incompetent to the due performance of his duties, or is unfit to be con-

tinued in his office, or shall have refused or wilfully neglected to perform the duties required of him by the rules and regulations to be made as directed by this Act, they are hereby empowered to remove him from such office.

XXXI. And be it further enacted, That if any prisoner shall be of a religious persuasion differing from that of the established church, a minister of such persuasion, at the special request of such prisoner, shall be allowed to visit him or her at proper and reasonable times, under such restrictions imposed by the visiting justices as shall guard against the introduction of improper persons, and as shall prevent improper communications.

XXXII. And be it enacted, That in case any chaplain shall from confirmed sickness age or infirmity, become incapable of executing the office in person, the justices of the peace, at any general or quarter sessions of the county, riding, division, district, city, town, or place respectively, shall take the circumstances of the case into their consideration; and if such justices shall deem it expedient, they are hereby empowered to grant to such chaplain such annuity as they in their discretion shall think proportionate to the merits and time of his services, and may order the payment out of the rates lawfully applicable to the building and repairing such gaols and prisons: Provided always, that the amount so paid by way of superannuation or allowance to any retired chaplain of any one prison, shall not exceed the amount of two thirds of the salary fixed for the succeeding chaplain of such prison.

XXXIII. And be it further enacted, That the justices in general or quarter sessions assembled shall and they are hereby required from time to time to appoint a surgeon, being a member of one of the royal colleges of surgeons, to each of the prisons within their jurisdiction to which this Act shall extend; and every such surgeon shall and is hereby required to visit every prison to which he shall be so appointed twice at least in every week, and oftener if necessary, and to see every prisoner confined therein, whether criminal or debtor, and to report to every general or quarter sessions the condition of the prison, and the state of health of the prisoners under his care; and he shall further keep a journal, in which he shall enter the date of every attendance on the performance of his duty, with any observations which may occur to him in the execution thereof, and shall sign the same with his name; and such journal shall be kept in the prison, but shall regularly be laid before the justices for their inspection at every quarter sessions, and shall be signed by the chairman of the sessions, in proof of the same having been there produced; and it shall and may be lawful for the justices, at every general or quarter sessions after such appointment, to direct a reasonable sum to be paid as salary to such surgeon, and also such sums of money as shall be due for medicines, and other articles for the sick.

XXXIV. And be it further enacted, That from and after the commencement of this Act, there shall be kept in every prison to which this Act shall extend, a book, in which the chaplain and every other officer of the said prisons not residing within such prisons, but attending on or required to attend on such prison, shall regularly insert the date of every visit made by such chaplain or other such officer respectively; and every such entry shall be signed with the name and in the proper handwriting of such chaplain or other officer respectively, and shall contain such remarks as may be thought necessary on the occasion of any such visit; and every keeper of every such prison shall be responsible for the safe custody of such book, whole unmutilated and unaltered, and shall at all times, when required so to do, produce such book for inspection to the justices at every general or quarter sessions, and to the visiting justices, or to any justice of the peace for the county, riding, division, district, city, town, or place wherein such prison shall be situate; and the chaplain shall, on every *Michaelmas* quarter sessions, deliver to the justices a statement of the condition of the prisoners and his observations thereupon.

No. XIX.
4 Geo. IV.
c. 64.

Ministers allowed to visit other Prisoners, under certain Restrictions.

Power to Quarter Sessions to grant Annuity to any Chaplain incapable, from Infirmary, of executing his Office.

Appointment of Surgeons.

Journal to be kept by them.

Book to be kept in which Visits of Chaplain, &c, shall be entered.

No. XIX.

4 Geo. IV.
c. 64.

In what manner
Bequests and
Benefactions
may be applied.

Chief Justices,
&c., to examine
into Gifts for
Prisoners.

Lists of Gifts to
be registered by
the Clerks of
the Peace, and
hung up in
Gaols.

In what Cases
Persons com-
mitted for Trial
may be employ-
ed in Work.

Not to place to-
gether in Work
any Prisoners
who should be kept separate.

Justices may
employ Pri-
soners.

XXXV. And whereas provision is made in this Act for supplying poor prisoners with food and clothing: And whereas bequests have been made, and benefactions have been given, for supplying such poor criminal prisoners with these necessities: Be it therefore enacted, That it shall and may be lawful for the justices in general or quarter sessions assembled, to apply such bequests or benefactions for the benefit of such poor prisoners, either by providing them with the implements of labour, or with the means of returning to their own homes, or in such manner as to the magistrates may appear expedient.

XXXVI. And be it further enacted, That the chief justices of the Courts of King's Bench and Common Pleas, and the chief baron of the Court of Exchequer, or any one of them, together with the lord mayor and two of the aldermen, or with three of the aldermen of the city of London, for and in respect of the gaols and prisons within the city of London and the liberties thereof, and the said chief justices or chief baron, or any one of them, with three justices of the peace of the counties of *Middlesex* and *Surry* respectively, for and in respect of the gaols and prisons in the counties of *Middlesex* and *Surrey*, and the justices of gaol delivery and great sessions, and the justices of peace of every other county riding and division of a county, at any general or quarter session of the peace to be holden for such county riding or division respectively, in their respective jurisdictions, and all commissioners for charitable uses, shall do their best endeavours and diligence to examine and discover the several gifts legacies and bequests bestowed and given for the benefit and advantages of the poor prisoners in the several gaols and prisons to which this Act shall extend, and to send for any deeds, wills, writings, and books of account whatsoever, and any persons concerned therein, and to examine them upon oath to make true discovery thereof (and which such chief justices, chief barons, justices of gaol delivery and great sessions, mayor, aldermen, and justices of the peace, have hereby full power and authority to do), and to order and settle the payment recovery and receipt of all such gifts legacies and bequests, when so discovered and ascertained, in such easy and expeditious manner, that the prisoners for the future may not be defrauded, but receive the full benefit thereof, according to the true intent of the donors, or the provisions of this Act; and that lists or tables of such gifts legacies and bequests, for the benefit of the prisoners in every gaol or prison respectively, fairly written, shall be registered by the clerks of the peace of the respective counties and places in the rolls of their respective sessions, without fee or reward, and copies thereof shall be hung up in such gaols and prisons respectively, in some open room or place, to which the prisoners may have resort as occasion shall require.

XXXVII. And whereas persons are often committed to prison for trial, who are willing to be employed in such work or labour as can be conveniently executed or done in the prison to which they are so committed, and it is fit that such persons should be so employed rather than that they should be obliged to remain idle during their confinement; be it therefore enacted, That it shall and may be lawful for any one or more visiting justice or justices of any prison to which this Act shall extend, to authorize, by an order in writing, the employment of any such prisoners, with their own consent, in any such work or labour; and it shall be lawful for the keeper of such prison to employ such prisoner in such work or labour accordingly, and to pay to such prisoners any such wages or portion of the same, and at such periods, as shall be directed by such justice or justices: Provided always, that it shall not be lawful to place together, on account of such employment, any prisoners who would otherwise be kept separate under the provisions of this Act.

XXXVIII. And whereas persons convicted of offences are frequently sentenced to imprisonment without being sentenced to hard labour; be it therefore enacted, That it shall be lawful for two or more visiting justices of any prison, to order that all such persons confined in such prison,

in pursuance of any sentence or conviction, except such prisoners as shall maintain themselves, shall be set to some work or labour not severe: And it is hereby declared, that no such prisoner, who shall be of ability to earn, and who shall have the means of earning or of otherwise providing for his own subsistence, shall have any claim to be supported at the expence of the county riding or division, or by the sheriff or the keeper of the prison; provided that when such ability shall cease by reason of sickness, infirmity, the want of sufficient work, or from any other cause, every such person shall, during the continuance of his inability, receive such provision and support as shall be directed for other convicted prisoners in the same prison; and the keeper of every such prison shall keep an account of the work done by every prisoner so set to work as aforesaid, and shall account to such prisoner for so much of the net profits which such prisoner shall have earned, or for such daily or other allowance for the work and labour done by such prisoner, as shall be directed either by the rules and regulations of such prison, or in case of no provision being made on this head by those rules and regulations, then for such part of the said net profits, or for such daily or other allowance as shall be directed by the visiting justices, and shall pay the amount of all accumulations of such allowance to such prisoner at his or her discharge.

XXXIX. And whereas it is desirable that prisoners discharged from prison should be supplied with the means of returning to their families, or to their place of settlement, or to some place of employment, where they may be engaged in a life of honest labour for their maintenance, and prevented from pursuing evil courses; be it therefore enacted, That it shall and may be lawful for any one or more of the visiting justice or justices of any prison to which this Act shall extend, from whence any prisoner shall be discharged, to direct that such moderate sum of money shall be given and paid to any and every such prisoner so discharged, who shall not have the means of returning to his or her family or place of settlement, or resorting to any place of employment or honest occupation, as in the judgment of such justice or justices shall be requisite and necessary for such purpose, under all the circumstances attending the case of any such prisoner; and that such sum of money shall be paid by the keeper of such prison to or for the use of such prisoner, for the purpose aforesaid; and that all such sums shall be provided for, either out of such bequests or benefactions as aforesaid, or in such manner as is by this Act directed with respect to the expence of the support and maintenance of the prisoners in such prisons respectively.

XL. And be it further enacted, That if any person, in contravention of the existing rules, shall carry or bring, or attempt or endeavour to carry or bring into any prison to which this Act shall extend, any spirituous or fermented liquor, it shall be lawful for the gaoler, keeper, turnkey, or any other of the assistants to the said gaoler or keeper, to apprehend or cause to be apprehended such offender, and to carry him or her before a justice of the peace (who is hereby empowered to hear and determine such offence in a summary way), and if he shall lawfully convict such person of such offence, he shall forthwith commit such offender to the common gaol or house of correction, there to be kept in custody for any time not exceeding three months, without bail or mainprize, unless such offender shall immediately pay down such sum of money not exceeding twenty pounds, and not less than ten pounds, as the justice shall impose upon such offender to be paid, one moiety to the informer, and the other moiety in aid of the rate applicable to the maintenance of such prison; and if any justice shall receive information upon oath, that any spirituous or fermented liquor is unlawfully kept or disposed of in any prison, he may enter and search, or issue his warrant to enter and search for such liquor; and in case it shall be found, it shall be lawful for the person so finding to seize the same, and cause it to be disposed of as the justice shall direct; and if any gaoler or keeper of any prison shall sell, use, lend, or give away, or knowingly permit or suffer to be sold, used, lent, or given away, in such prison, or brought into the same, any spirituous or fermented liquor, in contravention of the existing rules of such prison, he shall for every such

No. XIX.

4 Geo. IV.
c. 64.

Where there is Ability to earn, no Claim for Support from the County.

Account of Work done to be kept by the Keeper.

Allowance to be made for the Work done.

For supplying to Prisoners discharged from Prison the Means of returning to their Home, &c.

Punishment for carrying Spirituous Liquors into Prisons.

Penalty on Gaoler permitting the Sale of such Spirits.

No. XIX.

4 Geo. IV.

c. 64.

Power of the
Keeper of a
Prison to punish
certain Of-
fences.

Further Pu-
nishment of re-
fractory Pri-
soners by Visit-
ing Justices,
&c.

Conveying Vi-
zors, &c., into
Prisons to as-
sist Prisoners
to escape.

Transportation
for assisting
Prisoners to
escape.

Method of Trial
and Conviction
of Offenders
making
Escapes, &c.

On Report or
Presentment of
Inefficiency of
Justices
Contract for

offence, over and above any other punishment by this Act enacted, forfeit and lose the sum of twenty pounds.

XLII. And be it further enacted, That the keeper of every prison shall have power to hear all complaints touching any of the following offences; (that is to say), disobedience of any of the rules of the prison; assaults by one person confined in such prison upon another, when no dangerous wound or bruise is given; profane cursing and swearing; any indecent behaviour, and any irreverent behaviour at chapel, all of which are declared to be offences by this Act, if committed by any description of prisoners; absence from chapel without leave; idleness or negligence in work, or wilful mismanagement of it, which are also declared to be offences by this Act if committed by any prisoner under charge or conviction of any crime; and the said keeper may examine any persons touching such offences, and may determine thereupon, and may punish all such offences by ordering any offender to close confinement in the refractory or solitary cells, and by keeping such offenders upon bread and water only, for any term not exceeding three days.

XLII. And be it further enacted, That in case any criminal prisoner shall be guilty of any repeated offence against the rules of the prison, or shall be guilty of any greater offence than the gaoler or keeper is by this Act, empowered to punish, the said gaoler or keeper shall forthwith report the same to the visiting justices, or one of them for the time being; and any one such justice, or any other justice acting in and for the county, or riding or division of a county, or for the district, city, town, or place to which such prison belongs, shall have power to inquire upon oath, and to determine concerning any such matter so reported to him or them, and to order the offender to be punished by close confinement for any term not exceeding one month, or by personal correction in the case of prisoners convicted of felony, or sentenced to hard labour.

XLIII. And be it further enacted, That if any person shall convey or cause to be conveyed into any prison to which this Act shall extend, any mask vizor or other disguise, or any instrument or arms proper to facilitate the escape of any prisoners, and the same shall deliver or cause to be delivered to any prisoner in such prison, or to any other person there, for the use of any such prisoner, without the consent or privity of the keeper of such prison, every such person shall be deemed to have delivered such vizor or disguise, instrument or arms, with intent to aid and assist such prisoner to escape or attempt to escape; and if any person shall, by any means whatever, aid and assist any prisoner to escape or in attempting to escape from any prison, every person so offending, whether an escape be actually made or not, shall be guilty of felony, and being convicted thereof, shall be transported beyond the seas for any term not exceeding fourteen years.

XLIV. And, to the intent that prosecutions for escapes breaches of prison and rescues may be carried on with as little trouble and expence as is possible, be it enacted, That any offender escaping breaking prison or being rescued therefrom may be tried either in the jurisdiction where the offence was committed, or in that where he or she shall be apprehended and retaken; and in case of any prosecution for any such escape, attempt to escape, breach of prison, or rescue, either against the offender escaping or attempting to escape, or having broken prison, or having been rescued, or against any other person or persons concerned therein, or aiding abetting or assisting the same, a certificate given by the clerk of assize, or other clerk of the court in which such offender shall have been convicted, shall, together with due proof of the identity of the person, be sufficient evidence to the court and jury of the nature and fact of the conviction, and of the species and period of confinement to which such person was sentenced.

XLV. And be it further enacted, That in case it shall appear at any time to the justices at any general or quarter sessions of the peace, holden in any county or riding, or in any such division of a county as aforesaid, or in any district, city, town, or place to which this Act shall extend, by enlarging building or repairing the same.

No. XIX.
4 Geo. IV.
c. 64.

Justices shall
give Notice in
some News-
paper of the
County, &c.

Justices may
purchase
Houses, &c.,
for the Purpose
of building or
enlarging any
Prison.

If Prison be-
comes unsafe
or inconvenient,
Two Justices
may order Re-
pairs, and shall
report to the
Sessions.

any report made under the provisions of this Act, of the state of any prison, to such justices at such sessions, or by any presentment at any time made by the grand jury at the assizes, great session, session of gaol delivery, or session of the peace, to be holden for any such county, riding, division, district, city, town, or place, or by any presentment at any time made by any two or more justices of the peace in and for the same, and laid before the justices at such general or quarter sessions of the peace, that any gaol or house of correction to which this Act shall extend, within such county, riding, division, district, city, town, or place, is insufficient inconvenient or in want of repair, or otherwise inadequate to give effect to the rules and regulations prescribed by this Act, or that there is a necessity for the erection of any new gaol or house of correction; the justices assembled at such general or quarter sessions, or at the general or quarter sessions, or adjournment thereof, next after any such report or presentment made, shall and they are hereby required to cause notice to be given, three times at least, in some public newspaper circulating within such county, riding, division, district, city, town, or place, of such report or presentment having been laid before such sessions, and of their intention to take the same into consideration at the next ensuing or some subsequent general or quarter sessions, or adjournment thereof; and in case the justices at such last mentioned sessions, or the major part of them, shall resolve that such report or presentment is well founded, then it shall and may be lawful for such justices, and they are hereby required, at the sessions mentioned in such notice, or at a subsequent session, or adjournment thereof, with the like notice, to take such measures, either by contract or otherwise, as shall appear to them to be requisite and proper, for the altering enlarging or repairing, or for building or rebuilding any such gaol or house of correction, regard being had, in the case of contracts, to the reasonableness of the price and responsibility of the contractors; and every contractor shall give sufficient security for the due performance of his contract to the clerk of the peace or town clerk for the county, riding, division, district, city, town, or place, to be inspected at all reasonable times by any justices, or by any other person contributing to the rate of such county, riding, division, district, city, town, or place without fee or reward.

XLVI. And be it further enacted, That after such presentment and notice as aforesaid, it shall and may be lawful for the justices in general or quarter sessions assembled, or the major part of them, and they shall have full power and authority, to purchase any houses, building, lands, tenements, hereditaments, ways, watercourses, and other easements, for the purpose of enlarging or rendering commodious, or for the building or rebuilding any prison, and to direct the property so purchased to be conveyed to such person or persons as the said justices shall think fit, in trust for the purpose aforesaid, under the regulations and directions in this Act contained; and such houses, buildings, lands, tenements, hereditaments, ways, watercourses, or other easements, shall, when enclosed and added to such prison, be deemed and taken to be parts of such prison, and to be within the county, riding, division, city, district, town, or place, to the use of which such prison may be applied, to all intents and purposes whatever, so long as the same shall be used by such county, riding, division, city, district, town, or place for the purpose of this Act, and no longer.

XLVII. Provided also, and be it further enacted, That if it shall at any time happen, that any such gaol or house of correction shall become unsafe or unfit for the custody of the prisoners confined therein, between the several times of holding the general or quarter sessions, it shall and may be lawful for any two or more justices (one of whom shall be a visiting justice for the prison) for the county, riding, division, district, city, town, or place, to order such repairs and alterations to be immediately done and made, as may be necessary and sufficient for the safe and proper custody of such prisoners and the upholding of such prison; and such justices shall report the same to the next court of general or quarter sessions to be holden for such county, riding, division, district, city, town, or place; and such court is hereby authorized to order the payment of such sum or

No. XIX.
4 Geo. IV.
c. 64.

Gaols, though locally situate out of the County, &c., shall be deemed Part of the County, &c., and subject to the jurisdiction of the Justices of the County, &c.

Plans for Prisons shall be such as to provide separate Places of Confinement, Classification, &c.

sums of money as shall have been properly expended in such repairs or alterations as aforesaid.

XLVIII. And be it further enacted, That every gaol house of correction or other prison, for any county, riding, or division, county of a city, or county of a town, or for any town, liberty, soke, or place, not being a county, but having an exclusive jurisdiction for the trial of felonies or misdemeanors committed therein, which is now built or shall hereafter be built, together with the ground whereon the same shall stand, and every court, yard, building, and appurtenances thereunto belonging, with every addition that shall hereafter be made thereto, which said gaol house of correction or other prison, court, yard, building, appurtenance, or addition, is or shall be situate within the limits of any other county, riding, or division, county of a city, county of a town, or of any other town, liberty, soke, or place, not being a county, but being an exclusive jurisdiction for the trial of felonies or misdemeanors committed therein, shall be deemed and taken to be part of the county, riding, or division, county of a city, county of a town, or of the town, liberty, soke, or place for which the same shall be used as a gaol house of correction or other prison, so long as the same shall be so used, and no longer; and the justices of the peace, mayors, jurats, coroners, constables, and other officers of such county, riding, or division, county of a city, county of a town, or of such town, liberty, soke, or place, for which the same shall be used as a gaol house of correction, or other prison, shall, during the time that the same shall be so used, have as full power and authority therein, as they would have if the same was not situate within the limits of such other county, riding, or division, county of a city, county of a town, or of such town, liberty, soke, or place; any charter law or usage to the contrary thereof in anywise notwithstanding.

XLIX. And be it further enacted, That in the altering, enlarging, repairing, building, or rebuilding of any gaol or house of correction under this Act, the justices shall adopt such plans as shall afford the most effectual means for the security, classification, health, inspection, employment, and religious and moral instruction of the prisoners; the building shall be so constructed or applied, and the keepers' and officers' apartments so situated, as may best insure the safety of the prison, and facilitate the controul and superintendence of those committed thereto; distinct wards, and dry and airy cells shall be provided, in which prisoners of the several descriptions and classes herein-after enumerated may be respectively confined; and it shall be considered as a primary and invariable rule, that the male prisoners shall in all cases be separated from the female, so as to prevent any communication between them: Provision shall be made for the separation of prisoners into the following classes; if a gaol; first, debtors, and persons confined for contempt of court on civil process; secondly, prisoners convicted of felony; thirdly, those convicted upon trial of misdemeanors; fourthly, those committed on charge or suspicion of felony; fifthly, those committed on charge of misdemeanors, or for want of sureties: If a house of correction; first, prisoners convicted of felony; secondly, prisoners convicted upon trial of misdemeanors; thirdly, those committed on charge or suspicion of felony; fourthly, those committed on charge of misdemeanors; fifthly, vagrants: places of confinement shall also be set apart in every gaol and house of correction for such prisoners as are intended to be examined as witnesses in behalf of the Crown in any prosecutions, and such further means of classification shall be adopted as the justices shall deem conducive to good order and discipline; separate rooms shall be provided as infirmaries or sick wards for the two sexes, and as far as is practicable for the different description of prisoners; and warm and cold baths, or bathing tubs, shall be introduced into such parts of the prison as may be best adapted for the use of the several classes; proper yards shall be allotted to the different classes for air and exercise, and each class shall have the use of a privy, and be furnished with a supply of good water; a separate sleeping cell shall, if possible, be provided for every prisoner; but as the numbers may sometimes be greater than the prison is calculated to contain, under the arrangement required by this Act, and as it is expe-

No. XIX.
4 Geo. IV.
c. 64.

dient that two male prisoners only should never be lodged together, a small proportion of cells or rooms shall be provided for the reception of three or more persons; every prison shall contain rooms and places properly fitted up for the exercise of labour and industry, and also a competent number of cells adapted to solitary confinement, for the punishment of refractory prisoners, and for the reception of such persons as may by law be confined therein; a chapel shall be provided in every prison, in such a convenient situation as to be easy of access to all the prisoners; it shall be fitted up with separate divisions for males and females, and also for the different classes; it shall be strictly set apart for religious worship, or for the occasional religious and moral instructions of the prisoners, and shall never be appropriated to or employed for any other purpose whatsoever; in cases where the justices shall deem it necessary that the chaplain should reside, either occasionally or permanently, within the prison or near to it, proper apartments shall be provided therein, or in the neighbourhood thereof, for his accommodation.

L. And be it further enacted, That in case it shall be expressly presented that the place wherein any old prison is situated is improper, and that the prison ought to be removed to some other part of the county, riding, division, district, city, town, or place, or that a new gaol or house of correction is necessary, the justices in their general or quarter sessions assembled shall take such presentment into their consideration, and if it shall be resolved by the justices assembled at two successive general or quarter sessions, or the major part of them, that such old prison ought to be removed, or that such new prison is necessary, it shall be lawful for the justices so assembled to contract for the building of a new gaol or house of correction in any part of the county, riding, division, district, city, town, or place, which they may deem most eligible; and whenever the site of any prison shall be changed, and the old site shall be no longer necessary for the purpose of a prison, it shall be lawful for the justices so assembled to make sale thereof, (unless it be the property of the King's Majesty, his heirs and successors, or of some private individual,) for the best price that can be gotten for the same, and to direct the purchase money to be paid to the treasurer of such county, riding, division, district, city, town, or place, and to direct the trustee of such lands and hereditaments, his heirs executors or administrators, (according to the tenure thereof,) and the clerk of the peace or town clerk, to convey the inheritance of such site to the purchaser; and every such conveyance, together with the treasurer's receipt for the purchase money, shall give a good and valid title to the purchaser; and the purchase money shall be applied by the treasurer in aid of the rate of such county, riding, division, district, city, town, or place; and whenever the building of any court of justice is or shall be so attached to any prison, as to render it impracticable or inconvenient to repair, enlarge, improve, or rebuild the said prison, without also altering or pulling down the building of the said court, then and in such cases it shall be lawful for the justices in general or quarter sessions assembled, to cause such courts to be altered or pulled down, or to be rebuilt, either on the same or on any other site, subject to the same provisions as are by this Act appointed with respect to gaols.

LI. And be it further enacted, That whenever the justices in general or quarter sessions assembled shall deem it necessary that the prisoners, or any part of them, shall be removed from any house of correction within their jurisdiction, in order that the same may be repaired, improved, enlarged, or rebuilt, or on account of any contagious or infectious disease therein, or of the over-crowded state of such house of correction, or for any of the purposes of this Act, it shall and may be lawful for the said justices, by an order in writing to be signed by the chairman of such general or quarter sessions, to direct the keeper of such house of correction to remove such prisoners to such other prison or place of confinement within their jurisdiction as the said justices shall appoint, and to confine such prisoners therein during the time such necessity shall exist; and that when such house of correction shall be repaired, enlarged, improved, or rebuilt, it shall be lawful for the said justices, by a like order in writing,

Justices may remove the Site of Prisons, upon express Presentment that the old Site was unfit and inconvenient.

Where any Courts of Justice are attached to Prisons, they may be altered, &c.

Justices in Session may remove Prisoners in case of want of Repair of Prison, or of contagious Disease, and back again when the Cause is removed.

No. XIX.
4 Geo. IV.
c. 64.

In case of
County Gaols,
Notice to be
given to Sheriff,
who shall re-
move such Pri-
soners.

to direct the said keeper to remove to the house of correction so repaired, enlarged, improved, or rebuilt; or when such contagious disease shall have ceased to exist, or the purposes for which the prisoners shall have been so removed shall have been answered, to remove back to the house of correction from whence the prisoners came all such prisoners as shall then remain in his custody; and that if for any of the causes above recited, the said justices so assembled as aforesaid shall deem it necessary to remove the debtors and other prisoners from any common gaol, the said justices shall give due and sufficient notice thereof in writing to the sheriff of such county, riding, division, city, or town, whereupon it shall be lawful for the said sheriff to remove such debtors and other prisoners to such prison or other place of confinement within his jurisdiction as the justices with the consent of the said sheriff shall appoint, and to confine them therein during the time such common gaol shall be repairing, enlarging, improving, or rebuilding, or during the continuance of such contagious disease on account of which the said prisoners were removed, or during such time as shall be requisite for any purposes of this Act; and that when such gaol shall be made fit for the reception and safe keeping of such debtors and other prisoners, then it shall be lawful for the said sheriff to remove thither all such prisoners as shall then be in his custody; and further, if a new common gaol shall be erected, or a prison previously used for other purposes shall be adapted to the use of a common gaol, and the justices in general or quarter sessions assembled shall, with the consent of the sheriff, order and declare that from a day to be named such new gaol, or prison newly adapted to such purpose, shall become the common gaol, it shall be lawful for the sheriff on that day, or at any time thereafter, to remove all prisoners in his custody to the last-mentioned gaol or prison.

In Cases where
immediate Re-
moval of Pri-
soners is neces-
sary, Visiting
Justices em-
powered to or-
der the same.

LII. And be it further enacted, That whenever any contagious disease or other emergency shall render necessary the immediate removal of the prisoners, or any of them, confined in any gaol or house of correction, and that previous thereto it shall be impossible to obtain for such purpose the order of the justices in general or quarter sessions assembled, it shall and may be lawful for the visiting justices of such prison, and they are hereby empowered to issue an order under their hands and seals to the keeper of every such prison to remove such prisoners, or any of them, to such other prison or other place of confinement within their jurisdiction as shall be specified in such order.

Order of such
Visiting Jus-
tices shall be laid
before Sessions.

LIII. Provided always, and be it enacted, That every such removal shall be subject to all such restrictions as to its duration as is hereby required and directed, and that every such order of visiting justices shall be laid before the justices assembled at the general or quarter sessions of the peace which shall be held next after such order shall have been made: Provided also, that the prisoners confined in any common gaol of any county, city, town, or place, shall not be removed without the consent of the sheriff of such county, city, town, or place: Provided also, that no removal, made under the authority of this Act, shall be deemed or taken to be an escape; and that nothing herein contained shall extend to discharge the sheriff or other officer from being answerable for the actual escape of any prisoner in his custody.

In such Remov-
als from County
Gaols Sheriff's
Consent neces-
sary, and no
such Removal
to be deemed
an Escape.
When Amount
of Estimate for
building, &c.,
exceeds One
Half of the an-
nual County
Rate, such
County Rate
may be mort-
gaged.

LIV. And be it further enacted, That when it shall appear that the amount of any estimate approved by the justices, for the building or rebuilding, repairing or enlarging any gaol or house of correction, under the powers of this Act, shall exceed one-half of the amount of the ordinary annual assessment for the rate of any county or riding, or of any such division of a county as aforesaid, or of any district, city, town, or place, (such ordinary assessment to be taken on an average of such rate for the last seven years preceeding), it shall and may be lawful for the justices, in quarter sessions assembled, from time to time to borrow and take up on mortgage of such rate, by instrument in the form contained in the schedule to this Act annexed marked (C.), or to the like effect, any sum of money not exceeding the amount of such estimate, in sums not less than fifty pounds, nor exceeding one hundred pounds each, at interest, as to the

No. XIX.
4 Geo. IV.
c. 64.



said justices shall appear necessary and expedient for the purposes aforesaid, and to secure every such sum of money so borrowed upon the credit of the said rate; and it shall and may be lawful for the justices so assembled, and they are hereby authorized to treat and agree with any person for the loan of any such sums of money, and by their order to confirm every such agreement; and every such agreement, signed by the chairman and two or more other justices present at the time of making such order, shall be and the same is hereby declared to be effectual for securing to the person so advancing any such sum of money every such sum, with interest for the same, on such terms as in and by such agreement shall be stipulated; and copies or extracts of all such agreements shall be kept with the clerk of the peace; and it shall and may be lawful for every person who shall be entitled to the money thereby secured, and such person is hereby empowered (by indorsing his name on the back of such security) to transfer the same, and his right to the principal money and interest thereby secured, unto any other person; and every such assignee may in like manner transfer the same again, and so *toties quoties*; and the person to whom such security or any such assignment thereof shall be made, and his executors administrators and assigns, shall be creditors upon the said rate in an equal degree one with another, and shall not have any preference with respect to the priority of any monies so advanced.

LIV. And be it further enacted, That the said justices shall and they are hereby authorized and required to charge the rate to be raised upon such county, riding, division, district, city, town, or place, not only with the interest of the money so borrowed, but also with the payment of such further sum as shall insure the payment of the whole of the sum borrowed within fourteen years from the time of borrowing the same; and such sums shall be assessed on the county, riding, division, district, city, town or place, in such manner as county rates are directed to be assessed by the laws now in being, and paid and applied under the direction of the justices, in discharge of the interest, and of so many of the principal sums on the said securities, as such money will extend to discharge in each year, until the whole of the money for which such securities shall be made, and the interest thereof, shall be fully paid and discharged; and the justices are required to fix one or more day or days in each year on which such payment shall be made, and shall make orders for assessments in due time, so as to provide for the regular payment thereof; and they are hereby required to appoint a proper person to keep an exact and regular account of all the receipts and payments, under the authority of this Act, in a book or books, separate and apart from other accounts, and the same to adjust and settle in such manner that it may easily be seen what interest is growing due, and what principal money has been discharged, and what remains due; and the book or books so adjusted and settled to deliver into court at every general or quarter sessions to be held for such county, riding, division, district, city, town, or place; and the justices shall and they are required, at every such sessions, carefully to inspect all such accounts, and to make orders for carrying the several purposes of this Act into execution, in such manner as to them shall seem meet; and if at any time it shall appear to the justices, that the person so appointed has neglected such order, and has not duly, and without delay, applied the money in his hands to the purposes hereby directed, such person shall forfeit half the amount of the money which shall not have been applied to the purposes of this Act; and the justices so assembled in sessions as aforesaid shall direct in what order such securities shall be discharged, by drawing lots or otherwise, as they shall think fit, taking care to discharge in the first place all such securities as shall bear the highest rate of interest.

LVI. And be it further enacted, That it shall and may be lawful for the King's most excellent Majesty, his heirs and successors, and for all bodies politic and corporate, and also for all guardians, committees, husbands, trustees, and attorneys of all persons being infants, lunatics, idiots, under coverture, or any other disability, and also for all other persons

Justices may charge County Rates, so as the Money borrowed be repaid in fourteen Years, with Interest.

Books to be kept of Receipts and Payments.

Bodies Politic, &c., empowered to sell and convey Lands.

No. XIX.
4 Geo. IV.
c. 64.

Where Crown
Lands are ne-
cessary, Treas-
ury may convey
the same.

3 G. 4. c. 78.

If Parties refuse
to treat, &c.,
Value of Pre-
mises to be set-
tled by a Jury.

who are or shall be seised possessed of or interested in any houses, buildings, lands, tenements, hereditaments, easements, or privileges, which shall be deemed necessary for the purposes of this Act, to contract or agree for, and to sell convey and assure such houses, buildings, lands, tenements, hereditaments, easements, and privileges, unto such person as shall be named by the justices at general or quarter sessions, in trust and for the purpose of erecting new prisons, or of enlarging old ones, and the yards courts and outlets thereunto belonging; and all such contracts, agreements, sales, conveyances, and assurances shall be valid and effectual in law to all intents and purposes whatsoever; any law, statute, usage, or custom to the contrary notwithstanding.

LVII. And be it further enacted, That whenever any lands or hereditaments of the King's Majesty shall be requisite, and shall be contracted for, to be used for the purposes aforesaid, the same, if held by the King's Majesty, his heirs or successors, in the right of his or their royal crown, shall and may be legally conveyed by an instrument, under the hands and seals of the Lord High Treasurer, or of the Commissioners of his Majesty's Treasury, or of any three of them, and if parcel of the Duchy of *Lancaster*, by an instrument under the hand and seal of the chancellor of the same duchy, and if parcel of the Duchy of *Cornwall*, by an instrument under the hands and seals of the officers of the same duchy, authorized to grant leases under an Act of the last session of Parliament, intituled *An Act to enable His Majesty to make Leases Copies and Grants of Offices Lands and Hereditaments, Parcel of the Duchy of Cornwall, or annexed to the same*, or any two of such officers.

LVIII. And be it further enacted, That whenever any such corporation, guardian, committee, trustee, or attorney, or other person interested in any houses, buildings, lands, tenements, hereditaments, easements, or privileges, contiguous to any gaol or house of correction, which shall be deemed necessary for the purposes of enlarging or rendering more commodious any such gaol or house of correction, upon notice in writing to him her or them given, or left at the place or places of abode of such person or persons, or of the principal officer or officers of such corporation, shall, for the space of twenty-one days after such notice so given or left, neglect or refuse to treat, or shall refuse to accept such price as shall be offered by the justices or their agent, or shall otherwise not agree for the sale of such houses, buildings, lands, tenements, hereditaments, easements, or privileges; and whenever by reason of absence or incapacity any person shall be prevented from treating for such sale, then and in every such case the justices at the general or quarter sessions next after the termination of such twenty-one days, or at an adjournment thereof, shall and they are hereby required to cause notice to be given three times at least in some public newspaper circulating within such county, riding, division, district, city, town, or place, of their intention to take into consideration, at the next ensuing or some subsequent or general quarter sessions, or adjournment thereof, the matter of such neglect, refusal, or omission, or prevention to treat, or to accept of such price offered, or to agree for such sale as aforesaid, and the causes and reasons thereof respectively; and the person or persons, or some officer of any corporation so interested as aforesaid, in any such houses, buildings, lands, tenements, hereditaments, easements, and privileges, or some person on their behalf respectively, shall have liberty to attend such meeting, if they shall think fit, and to state to the justices there assembled their reasons for such neglect refusal or omission as aforesaid; and in case the justices at such last-mentioned sessions, or the major part of them, shall, after hearing what the parties interested as aforesaid, or their agents, have to allege in behalf of their respective interests, and upon due consideration had of such matter as aforesaid, resolve to proceed to the valuation and purchase of such lands, tenements, hereditaments, easements, or privileges, notwithstanding such neglect, refusal, or omission, or prevention as aforesaid, then and in every such case the justices at such sessions, or any two or more of them appointed for that purpose, shall cause the value of such houses, buildings, lands, tenements, hereditaments, easements, and privi-

leges, to be inquired into and ascertained by a jury of indifferent men of the county, riding, division, district, city, town, or place, wherein the same shall be situate, and to that end shall summon before such jury, and examine upon oath (which oath any one of the justices is hereby empowered to administer) any person or persons whomsoever; and such justices, or any two of them, shall, by ordering a view or otherwise, use all ways and means for the information of themselves and of such jury in the premises; and when such jury shall have inquired of and ascertained by their verdict the value of such houses, buildings, lands, tenements, hereditaments, easements, and privileges, the said justices shall thereupon order that the sum which shall so appear to be the value of such houses, buildings, lands, tenements, hereditaments, easements, and privileges, shall be paid in such manner as is herein-before directed touching the money to be paid for such houses, buildings, lands, tenements, hereditaments, easements, or privileges, for sale whereof the persons interested shall contract and agree in manner aforesaid; which verdict and order shall be filed of record by the clerk of the peace, or other officer having the custody of the records of the county, riding, division, district, city, town, or place, and shall be final and conclusive, to all intents and purposes whatsoever, against all parties and persons whomsoever, claiming or to claim in possession, reversion, remainder, or otherwise, their heirs and successors, as well absent as present, infants, lunatics, idiots, and persons under coverture, or any other disability whatsoever, corporations, guardians, committees, husbands, trustees, and attornies, or any other person or persons whomsoever.

LIX. And be it further enacted, That for the summoning and returning such juries, such justices, or any two of them, may issue their warrant to the sheriff or officer having the returning of writs within the county, riding, division, district, city, town, or place, within the limits of which the houses, buildings, lands, tenements, hereditaments, easements, or privileges shall be situate, requiring him to impanel summon and return an indifferent jury of twenty-four persons, qualified to serve on juries, to appear before the said justices, or any two of them, at such time and place as in such warrant shall be appointed; and such sheriff or officer is hereby required to impanel summon and return such number of persons accordingly, and out of such of them as shall appear upon such summons, the justices, or any two of them, shall and they are hereby empowered and required to draw by ballot, and to swear, or cause to be sworn, twelve men, who shall be the jury for the purposes aforesaid; and in default of a sufficient number of jurymen so returned, the said sheriff or officer shall take such other honest and indifferent men of the by-standers, or that can speedily be procured to attend that service, as shall make up the number twelve; and all persons concerned shall have their lawful challenges against any of the persons impanelled when they come to be sworn; and the said justices, or any two of them, shall have power to impose a fine or fines on such sheriff or officer, or his deputy or deputies, making such default in the premises, and on any of the persons who shall be summoned and returned on such jury, and who shall not appear, or appearing shall refuse to be sworn on the said jury, or being sworn shall refuse to give or shall not give a verdict, or shall in any other manner wilfully neglect his or their duty therein; and also on any person who, being summoned and required to give evidence before the said jury, shall refuse or neglect to appear, or appearing shall refuse to be sworn or to give evidence, so that no such fine be more than ten pounds nor less than twenty shillings on any one person for one offence.

LX. And be it further enacted, That in case any jury shall deliver a verdict for more money as the value of the houses, buildings, lands, tenements, hereditaments, easements, or privileges so to be purchased, than shall have been offered for the purchase thereof by the justices or their agent, to any person capable of contracting for the same, the costs and expences of summoning and maintaining the jury and witnesses shall

No. XIX.

4 Geo. IV.

c. 64.

How Jury to be
summoned and
chosen.

Fines may be
imposed for
Neglect of
Duty.

Expences of
Jury, &c., how
defrayed.

No. XIX.
4 Geo. IV.
c. 64.

Conveyance to
be made on
Payment of
Purchase
Money.

Application of
Compensation
when exceed-
ing 200*l*.

be borne and paid out of the same fund as the expences of the buildings to be erected; but if such jury shall deliver a verdict for no more or for less money than the money which shall have been so offered by such justices or their agent, then the costs and expences of summoning and maintaining the jury and witnesses shall be borne and paid by the person or persons with whom such controversy or dispute, touching the value of such houses, buildings, lands, tenements, hereditaments, easements, or privileges, shall arise: Provided always, that in all cases where any person or persons shall, by reason of absence, have been prevented from treating, such costs and expences shall be borne and paid out of the same fund as the expences of the buildings to be erected.

LXI. And be it further enacted, That upon payment of such sum and sums of money so to be ascertained and judged (that is to say) first in or towards the payment and discharge of any sums due on charges incumbrances and liens, if any, affecting the several estates respectively, and then to the owners of the said estates respectively, if any shall remain for that purpose, the person or persons who shall be so found and adjudged to be the owners of the said several estates, of and in the said houses, buildings, lands, tenements, or hereditaments, easements, or privileges respectively, and also the owners of any such incumbrances charges and liens respectively, shall make and execute, or procure to be made and executed to the person or persons so named by such justices, and his or their heirs, a good and sufficient conveyance or conveyances, thereby granting releasing or assigning to them the said houses, buildings, lands, tenements, or hereditaments, easements, or privileges, and all such estate, right, title, term, or interest therein, or charge incumbrance or lien thereon; and immediately upon such payments, and entry of such verdicts of the said juries, and judgments, sentences, and decrees, orders, and other proceedings as aforesaid, the said lands, houses, buildings, and premises, shall vest in the person or persons to be so named by the said justices, and his and their heirs, and he and they shall be deemed in law to be in the actual seisin and possession thereof, to all intents and purposes whatsoever, as fully and effectually as if every person having any estate in the premises, in possession, remainder, reversion, or expectancy, or any charge incumbrance or lien thereon, was of full age and of sound mind and memory, and had actually and duly conveyed the same to such trustee by lease and release, bargain and sale inrolled, feoffment with livery and seisin, fine and recovery, or by any other legal conveyance whatsoever.

LXII. And be it further enacted, That if any money shall be agreed or awarded to be paid for any houses, buildings, lands, tenements, hereditaments, easements, or privileges, purchased taken or used by virtue of the powers of this Act, which shall belong to any corporation, feme covert, infant, lunatic, person or persons under any other disability or incapacity, such money shall, in case the same shall amount to the sum of two hundred pounds, with all convenient speed be paid into the Bank of England, in the name and with the privity of the accountant-general of the High Court of Chancery, to be placed to his account, *ex parte* the justices of the peace for the county of _____, to the intent that such money shall be applied under the direction and with the approbation of the said court, to be signified by an order made upon a petition to be preferred in a summary way by the person or persons who would have been entitled to the rents and profits of the said houses, buildings, lands, tenements, hereditaments, easements, or privileges, in the purchase of the land tax, or discharge of any debt or debts, or such other incumbrances, or part thereof, as the said court shall authorize to be paid, affecting the same lands, tenements, or hereditaments, or affecting other houses, buildings, lands, tenements, hereditaments, easements, or privileges, standing settled therewith to the same or the like uses intents and purposes; or where such money shall not be so employed, then the same shall be laid out and invested, under the like direction and approbation of the said court, in the purchase of other houses, buildings, lands, tenements, hereditaments, easements, or privileges, which shall be conveyed

and settled to for and upon such and the like uses, trusts, intents, and purposes, and in the same manner as the houses, buildings, lands, tenements, hereditaments, easements, or privileges, which shall be so purchased taken or used as aforesaid, stood settled or limited, or such of them as at the time of making such conveyance and settlement shall be existing undetermined and capable of taking effect; and in the meantime and until such purchase shall be made, the said money shall by order of the Court of Chancery, upon application thereto, be invested by the said accountant-general in his name, in the purchase of three pounds *per centum* consolidated, or three pounds *per centum* reduced bank annuities; and in the meantime, and until the said bank annuities shall be ordered by the said court to be sold for the purposes aforesaid, the dividends and annual produce of the said consolidated or reduced bank annuities shall from time to time be paid by order of the said court to the person or persons who would for the time being have been entitled to the rents and profits of the houses, buildings, lands, tenements, hereditaments, easements, or privileges, so hereby directed to be purchased, in case such purchase or settlement were made.

LXIII. Provided always, and be it further enacted, That if any money so agreed or awarded to be paid for any houses, buildings, lands, tenements, hereditaments, easements, or privileges, purchased taken or used for the purposes aforesaid, and belonging to any corporation, or to any person or persons under disability or incapacity as aforesaid, shall be less than the sum of two hundred pounds, and shall amount to or exceed the sum of twenty pounds, then and in all such cases the same shall, at the option of the person or persons for the time being entitled to the rents and profits of the houses, buildings, lands, tenements, hereditaments, easements, or privileges so purchased taken or used, or of his her or their guardian or guardians, committee or committees, in case of infancy or lunacy, to be signified in writing under their respective hands, be paid into the Bank of *England*, in the name and with the privy of the said accountant-general of the High Court of Chancery, and be placed to his account as aforesaid, in order to be applied in manner herein-before directed; or otherwise the same shall be paid, at the like option, to two trustees, to be nominated by the person or persons making such option, and approved of by the said justices (such nomination and approbation to be signified in writing under the hands of the nominating and approving parties), in order that such principal money, and the dividends arising thereon, may be applied in manner herein-before directed, so far as the case be applicable, without obtaining or being required to obtain the direction or approbation of the said Court of Chancery.

LXIV. Provided also, and be it further enacted, That where such money so agreed or awarded to be paid as next before mentioned shall be less than twenty pounds, then and in all such cases the same shall be applied to the use of the person or persons who would for the time being have been entitled to the rents and profits of the houses, buildings, lands, tenements, hereditaments, easements, or privileges, so purchased taken or used for the purposes of this Act, in such manner as the trustees shall think fit; or in case of infancy or lunacy, then to his her or their guardian or guardians, committee or committees, to and for the use and benefit of such person or persons so entitled respectively.

LXV. And be it further enacted, That in case the person or persons to whom any sum or sums of money shall be awarded for the purchase of any houses, buildings, lands, tenements, hereditaments, easements, or privileges, to be purchased by this Act, shall refuse to accept the same, or shall not be able to make out a good title to the premises to the satisfaction of the said justices; or in case such person or persons to whom such sum or sums shall be so awarded as aforesaid cannot be found, or if the person or persons entitled to such houses, buildings, lands, tenements, hereditaments, easements, or privileges, be not known or discovered; then and in every such case it shall and may be lawful to and for the said justices to order the said sum or sums of money so awarded as aforesaid to be paid into the Bank of *England*, in the name and with the privy of

No. XIX.
4 Geo. IV.
c. 64.

Application when the Compensation is less than 200*l.* but not less than 20*l.*

Application where the Money is less than 20*l.*

In case of not making out Titles, Purchase Money to be paid into the Bank in the Name of the Accountant-General in Chancery.

No. XIX.

4 Geo. IV.
c. 64.

Where any
Question shall
arise touching
the Title to the
Money paid
into the Bank.

The Court of
Chancery may
order reason-
able Expences
of Purchases to
be paid.

Expences of the
Execution of
this Act to be
charged upon
the County
Rates.

the accountant-general of the Court of Chancery, to be placed to his account to the credit of the persons interested in the said houses, buildings, lands, tenements, hereditaments, easements, or privileges (describing them), subject to the order controul and disposition of the said Court of Chancery; which said Court of Chancery, on the application of any person or persons making claim to such sum and sums of money, or any part thereof, by motion or petition, shall be and is hereby empowered, in a summary way of proceeding or otherwise, as to the same court shall seem meet, to order the same to be laid out and invested in the public funds, and to order the distribution thereof, or payment of the dividends thereof, according to the respective estate or estates, title or interest, of the person or persons making claim thereunto, and to make such other order in the premises as to the said court shall seem just and reasonable; and the cashier or cashiers of the Bank of *England*, who shall receive such sum or sums of money, is and are hereby required to give a receipt for such sum or sums of money, mentioning and specifying for what and for whose use the same is or are received, to such person or persons who shall pay any such sum or sums of money into the bank as aforesaid.

LXVI. Provided always, and be it further enacted, That where any question shall arise touching the title of any person to any money to be paid into the Bank of *England* in the name and with the privity of the accountant-general of the Court of Chancery, in pursuance of this Act, for the purchase of any houses, buildings, lands, tenements, hereditaments, easements, or privileges, or of any estate right or interest in any houses, buildings, lands, tenements, hereditaments, easements, or privileges to be purchased in pursuance of this Act, or to any bank annuities to be purchased with any such money, or the dividends or interest of any bank annuities, the person or persons who shall have been in possession of such houses, buildings, lands, tenements, hereditaments, easements, or privileges, at the time of such purchase, and all persons claiming under such person or persons, shall be deemed and taken to have been lawfully entitled to such houses, buildings, lands, tenements, hereditaments, easements, or privileges, according to such possession, until the contrary shall be shewn to the satisfaction of the said Court of Chancery; and the dividends or interest of the said bank annuities to be purchased with such money, and also the capital of such bank annuities, shall be paid applied and disposed of accordingly, unless it shall be made appear to the said court that such possession was a wrongful possession, and that some other person or persons was or were lawfully entitled to such houses, buildings, lands, tenements, hereditaments, easements, or privileges, or to some estate or interest therein.

LXVII. Provided also, and be it enacted, That where by reason of any disability or incapacity of the person or persons or corporations entitled to any houses, buildings, lands, tenements, hereditaments, easements, or privileges to be purchased under the authority of this Act, the purchase money for the same shall be required to be paid into the Court of Chancery, and to be applied in the purchase of other houses, buildings, lands, tenements, hereditaments, easements, or privileges, to be settled to the like uses in pursuance of this Act, it shall and may be lawful to and for the said Court of Chancery to order the expences of such last-mentioned purchases from time to time to be made in pursuance of this Act, or so much thereof as the said court shall deem reasonable, to be paid by the said justices, out of any monies to be received for the purposes of this Act, who shall from time to time pay such sums of money for such purposes as the said court shall direct.

LXVIII. And, in order to defray the expences of the several matters and things herein-before directed to be done, respecting gaols, houses of correction, and other prisons, and for the support and maintenance of prisoners confined therein, who are entitled by law to such support, and for all other expences necessary to the execution of this Act, and not herein-before particularly provided for; be it further enacted, That it shall and may be lawful for the justices, at their general or quarter sessions assembled, and they are hereby authorized and empowered, to cause such sums

of money as shall be necessary for all or any of those purposes, to be raised on the counties, ridings, divisions, districts, cities, towns, or places to which this Act shall extend, in the same manner as rates applicable to the building repairing or maintenance of such prisons respectively, are now directed to be raised by law.

LXIX. And be it further enacted, That all fines forfeitures and penalties imposed by this Act, or which shall be imposed by virtue of any rule to be made in pursuance thereof, shall, on conviction of the offender before any one justice of the peace within his jurisdiction, be levied by distress and sale of the offender's goods and chattels, by warrant under the hand and seal of such justice of the peace, who is hereby authorized to hear and examine witnesses on oath or affirmation, on any complaint, and to determine the same; and all such fines forfeitures and penalties, the application whereof is not herein-before particularly directed, shall be paid from time to time to the treasurer of the county, riding, division, district, city, town, or place for the time being, and shall be applied and disposed of in aid of the rate applicable to the purposes of this Act, and to or for no other use or purpose whatsoever; and for want of sufficient distress, the offender shall be committed to the common gaol, or house of correction, for such term not exceeding six calendar months, nor less than one month, as such justice shall think proper.

LXX. And for the more easy and speedy conviction of offenders against this Act, be it further enacted, That the justice before whom any person shall be convicted of any offence against this Act, shall and may cause the conviction to be drawn up in the following form of words, or in any other form of words to the same effect, as the case shall happen; *videlicet*,

'**B**E it remembered, That on _____ in the year of our Lord _____ *A. B.* is convicted before me, *C. D.*, one of his Majesty's justices of the peace for the _____ of _____ for that the said *A. B.* [*specifying the offence, and the time and place when and where the same was committed, as the case shall be*], and the said *A. B.* is for his said offence adjudged by me, the said justice, to forfeit and pay the sum of _____ or to be imprisoned in _____ for the space of _____ [*as the case shall be*]. Given under my hand and seal, the day and year first above mentioned.'

LXXI. Provided always, and be it further enacted, That if any person shall think himself or herself aggrieved by any conviction of any justice, in pursuance of this Act, such person may appeal to the justices of the peace at any quarter sessions of the county, riding, division, district, city, town, or place wherein such conviction shall have taken place, within four calendar months after the cause of such complaint shall have arisen, such appellant first giving or causing to be given ten clear days' notice at least in writing of his or her intention to bring such appeal, and of the matter thereof, to the justice or justices before whom the conviction shall have been had, and to the clerk of the peace for the county, riding, or division, district, city, town, or place, in which such conviction shall have been had, and within two days after such notice entering into recognizance before some justice for such county, riding, or division, district, city, town, or place, with two sufficient sureties, conditioned to try such appeal, and abide the order of, and to pay such costs as shall be awarded by the justices at such session; and the justices at such session, upon due proof of such notice being given as aforesaid, and of the entering into such recognizance, shall hear and finally determine the matter of such appeal in a summary way, and award such costs to the parties appealing or appealed against as they the said justices shall think proper; and the determination of such session shall be final binding and conclusive to all intents and purposes.

LXXII. And be it further enacted, That no order made touching any of the matters in this Act contained, nor any conviction of any offender against this Act, shall be quashed for want of form, or be removed or removable by *certiorari*, by any other writ or process whatsoever, into any of his Majesty's Courts of Record at *Westminster*; and that where any dis-

No. XIX.

4 Geo. IV.

c. 64.

How Fines and Penalties shall be recovered and applied.

Form of Conviction.

Appeal to Quarter Sessions.

Conviction not to be quashed for want of Form.

No. XIX.
4 Geo. IV.
c. 64.

Persons sued
for any thing
done in pursu-
ance of this Act
may plead the
General Issue.

Officers re-
quired to per-
form certain
Duties.

Venue to be
laid in the
County where
the Fact is
committed.

Not to extend
to certain Pri-
sons, &c.

Where Prisons
built on Crown
Land the Land
to remain un-
alienable.

Commence-
ment of Act.

treas shall be made for any fine penalty or sum of money to be levied by virtue of this Act, the distress itself shall not be deemed to be unlawful, nor the party making the same be deemed a trespasser, on account of any defect or want of form in the summons, conviction, warrant of distress, or other proceedings relating thereto; nor shall such party be deemed a trespasser *ab initio*, on account of any irregularity which shall be afterwards done by the party distraining, but the person aggrieved by such irregularity shall and may recover full satisfaction for the special damage (if any) in an action upon the case; but no plaintiff shall recover in any action for such irregularity as aforesaid, if tender of sufficient amends shall have been made by or on behalf of the party distraining before such action brought.

LXXXIII. And be it further enacted, That if any suit or action shall be prosecuted against any person for any thing done in pursuance of this Act, such person may plead the general issue, and give this Act and the special matter in evidence at any trial to be had thereupon, and that the same was done by authority of this Act; and if a verdict shall pass for the defendant, or the plaintiff shall become nonsuit, or discontinue his or her action after issue joined, or if, upon demurrer or otherwise, judgment shall be given against the plaintiff, the defendant shall recover double costs, and have the like remedy for the same as any defendant hath by law in other cases; and though a verdict shall be given for the plaintiff in any such action, such plaintiff shall not have costs against the defendant, unless the judge before whom the trial shall be shall certify his approbation of the action, and of the verdict obtained thereupon.

LXXXIV. And be it further enacted, That all matters and things which by this Act the sheriff of any county is required or authorized to do and perform, shall, in those districts, cities, towns, liberties, or places where the sheriff hath no jurisdiction, be done and performed by the bailiff or bailiffs, or other like officer or officers, having or exercising within their respective districts, cities, towns, and liberties, duties analogous to the duties of the sheriff of a county; and that all matters and things which by this Act the treasurer of any county is required or authorized to do and perform, shall, in those places where the county treasurer hath no authority, be done and performed by the officer or officers having and exercising within such places duties analogous to those of a county treasurer: and that all matters and things which by this Act the clerk of the peace of any county, riding, or division is required or authorized to do and perform, shall, in those places where the clerk of the peace of the county hath no authority, be done and performed by the town clerk or other like officer having and exercising within such places duties analogous to those of the clerk of the peace of any county.

LXXXV. And be it further enacted, That all actions suits and prosecutions to be commenced against any person for any thing done in pursuance of this Act, shall be laid and tried in the county where the facts were committed, and shall be commenced within six calendar months after the fact committed, and not otherwise.


LXXXVI. And be it further enacted, That nothing in this Act contained shall extend to the royal hospital of *Bethlehem* and prison of *Bridewell*, nor to the *King's Bench* or *Fleet* prison, or to the prison of the *Marshalsea* or *Palace Courts*, the general penitentiary at *Milbank*, nor to the penitentiary at *Gloucester*; nor to any ships or vessels provided in any port or navigable river for the reception and employment of convicts sentenced to transportation; nor to exempt any such convicts from any punishment or discipline to which they were liable by law before the passing of this Act.

LXXXVII. And be it further enacted, That where any prison is situate on lands of the King's Majesty, in right of his royal crown, or of his Duchy of *Lancaster*, or of the Duchy of *Cornwall*, such lands, with their appurtenances, shall remain for ever unalienable, so long as they shall be used for the purpose of such prison.

LXXXVIII. And be it further enacted, That this Act, and the several clauses matters and things therein contained, shall commence and take

effect from and after the first day of *September* one thousand eight hundred and twenty-three, and not sooner.

No. XIX.
4 Geo. IV.
c. 64.



SCHEDULES to which this Act refers.

SCHEDULE (A.)

LIST of Districts, Cities, Towns, and Places, in England and Wales, to which this Act shall extend, in addition to Counties at large.

Bristol.
Canterbury.
Chester.
Coventry.
Exeter.
Gloucester.
Kingston-upon-Hull.
Leicester.
Litchfield.

Lincoln.
Liverpool.
Newcastle-upon-Tyne.
Norwich.
Nottingham.
Portsmouth.
Worcester.
York.

SCHEDULE

FORM of Annual Return

1. Number of Prisoners the Prison is capable of containing in separate Sleeping Cells.	2. Number of Prisoners the Prison is capable of containing where more than one Prisoner sleeps in one Cell.	3. Total Number of Prisoners		4. Number of Debtors.		5. Number of Misde-mouors		6. Number of Felons.		7. Number of Prisoners committed in the Course of the Year.	8. Number of Tried Prisoners.		9. Number of Untried Prisoners		10. Number of Prisoners above 17 Years of Age.	
		Mich* 18 .	Mich* 18 .	Male.	Female.	Male.	Female.	Male.	Female.		Male.	Female.	Male.	Female.	Male.	Female.

Note.—The Total of the cond Division of the of Columns 10 and 11.

19.—Whether Common Gaol, House of Correction, or Bridewell?

20.—Under whose Jurisdiction and Superintendence ?

21.—Number of Officers, and how appointed ?

22.—Number of Classes, Wards, or Divisions, Work Rooms, Day Rooms, and Airing Yards, and whether the same can be extended or increased ?

23.—Dietary or other Weekly Allowance ; and Weekly Cost per Head ?

24.—Allowance of Clothing and Bedding, and Cost per Head ?

25.—Description of Employment, and Hard Labour ?

26.—Hours of Labour and of Exercise ?

27.—Amount of Earnings how applied, and in what Proportion to each Class of Prisoners, to the Officers of the Prison, and to the Fund applicable to the Maintenance of the said Prison ?

28.—Whether the Classification required by this Act has been observed ? If not, For what Reasons ; and what Measures have been taken to remedy this Defect ?

29.—What Duties are performed by the Chaplain, what Provision made for Instruction, and whether Prisoners are supplied with Bibles and other Books ?

30.—Attendance of the Surgeon, and whether separate Buildings or Apartments are provided for the Sick ?

31.—Reasons for Non-employment of Prisoners, with reference to Column 15.

32.—Reasons for Punishments, by Solitary Confinement, by Whipping, or Irons.

33.—{ Is there any Insane Prisoner in Confinement ?
 State his or her Name, Age, and for what Offence committed ?
 How long has he or she been in Confinement ?
 How long has he or she been Insane ?

—General Observations.

3.)
Secretary of State.

11. Number of Prisoners under 17 Years of Age.		12. Greatest Number of Prisoners at one Time.	13. Number of Prisoners who have been committed before.				14. Prisoners employed.		15. Prisoners not employed.	16. Punishments for Offences within the Prison.				17. Number of Solitary Cells and of Apartments below Ground.		18. Cases of Sick-ness and Death.		
Male.	Female.		Once.	Twice.	Three Times.	Four and more.	Hard Labour.	Employment, not being Hard Labour.		Whippings.	In Irons.	Solitary Confinement.	Other Punishments.	Solitary Cells.	Apartments below Ground.	Cases of Sickness in the Year.	Greatest Number of Sick at one Time.	Deaths.

Column 4, 5, and 6, will be equal to the whole number of Prisoners in the Prison, expressed in the Section No. 3; and the Aggregate of Columns 5 and 6 will be equal to that of Columns 8 and 9, and to that

No. XX.

5 Geo. IV.
c. 12.

SCHEDULE (C.)

FORM of MORTGAGE and Charge upon the County Rate for securing the Money borrowed.

WE, A. B. one of his Majesty's justices of the peace, and chairman of the court of quarter sessions of the peace holden at

the day of for the county, &c. of
 [as the case may be,] C. D. and E. F. esquires,
 two other of his Majesty's justices of the peace acting for the said county,
 &c. and assembled in the said court, in pursuance of the powers to us
 given by an Act passed in the year of the reign of his
 Majesty King George the Fourth, intituled, &c. [insert the title of this Act]
 do hereby, in open court, mortgage and charge all the rates to be raised
 within the said county, &c. [as the case shall be] under the description of
 county rates, by the laws now in being, with the payment of the sum of
 which G. H. of hath proposed
 and agreed to lend, and hath now actually advanced and paid towards
 defraying the expences of building, repairing, &c. [as the case shall be]
 the gaol bridewell or house of correction at
 [as the case shall be] for the said county, &c.: And we do hereby confirm
 the same unto the said G. H. his executors administrators and assigns,
 for securing the payment of the sum of
 and interest for the same after the rate of per centum per
 annum, and do order the treasurer for the said county, &c. or other
 person [as the case shall be] to pay the interest of the said sum of
 half-yearly, as the same shall become due,
 until the principal shall be discharged, pursuant to the directions of the
 said Act.

[No. XX.] 5 Geo. IV. c. 12.—An Act to facilitate in those Counties which are divided into Ridings or Divisions, the Execution of an Act of the last Session of Parliament, for consolidating and amending the Laws relating to the building repairing and regulating of certain Gaols and Houses of Correction in *England* and *Wales*.—[23d March 1824.]

4 G. 4. c. 64.

WHEREAS by an Act passed in the fourth year of the reign of his present Majesty, intituled *An Act for consolidating and amending the Laws relating to the building repairing and regulating of certain Gaols and Houses of Correction in England and Wales*; it was (amongst other things) enacted, that there should be maintained at the expence of every county in *England* and *Wales*, one common gaol, and that the regulations and provisions contained in the said Act should extend, in manner therein mentioned, to every such gaol: And whereas in certain counties in *England* there are distinct commissions of the peace for the several ridings and divisions into which such counties are divided, and distinct courts of sessions of the peace are holden for each of such ridings and divisions respectively, and in such counties there are no courts of general or quarter sessions holden for the whole county at large; in consequence whereof the provisions and regulations of the said Act cannot in such counties be carried into execution: For remedy thereof, and in order to extend to such counties all the benefits of the said Act; be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That in every county divided into ridings or divisions, having distinct commissions of the peace, there shall be held from time to time a court of sessions for the peace, a Court of Sessions for the Gaol shall be held; and such Court shall possess all the Powers given by the former Act respecting the Common Gaol of such County.

In Counties
divided into
Ridings or Di-
visions, a Court of Sessions for the Gaol shall be held; and such Court shall possess all the Powers
given by the former Act respecting the Common Gaol of such County.

the gaol of such county, of which court all the justices of the peace of every riding and division of such county shall be members; and any two of such justices shall be able to hold such court; and such court shall possess and exercise all the powers and authorities respecting the common gaol of such county, and all matters relating thereto, which are in and by the said recited Act vested in the court of general or quarter sessions of the peace for any other county of *England*; and the justices of the peace for each of such ridings and divisions are hereby authorized as fully and effectually to perform and execute all the provisions and regulations of the said recited Act, with respect to such county gaol, as justices of the peace for the county are in any other county of *England* authorized to do with respect to the gaol of their respective counties; and the said court of gaol sessions is hereby empowered to transact and do, within the counties so divided, all such matters and things appertaining to the authority of justices of the peace in sessions assembled, with respect to the county gaol, as are in other counties capable of being done by justices of the peace in their general or quarter sessions assembled; and where by the said Act any thing is ordered to be done at any general or quarter sessions, or at any adjournment thereof, or at any subsequent general or quarter sessions or adjournment thereof, respecting the county gaol, then such things may be done at such gaol sessions, or at any adjournment thereof, or at one or more subsequent gaol sessions, in such ways and with such public notices as in the said recited Act they are ordered or directed to be done by the general or quarter sessions or adjournment thereof.

II. And be it further enacted, That the sheriff of every county so divided into ridings or divisions shall, within fourteen days next after the passing of this Act, by notice to be published in *The London Gazette*, and in some of the public newspapers most usually circulated within his county, summon the justices of each of the ridings or divisions into which the same is divided, to meet at some place in or near the county gaol, to be by him specified in such notice, and at a time not exceeding one month after the first publication of such notice, and there to form a court of sessions for the county gaol, for the purpose of carrying into execution the regulations and provisions of the said recited Act and of this Act; and the said court being so constituted shall proceed to elect a chairman and a clerk; and the said court, and the chairman thereof, shall proceed to execute all those matters and things which were by the said recited Act directed to be done by the court of quarter sessions of the peace held at *Michaelmas* next after the passing thereof, and by the chairman of that court, and to do all such other matters and things as may be necessary or proper in regard to the county gaol.

III. And be it further enacted, That the clerk of the gaol sessions shall continue in his office until another shall be elected in his stead by the court of gaol sessions, and shall, with respect to the said recited Act and this Act, have and enjoy all the powers vested by the said recited Act in the clerk of the peace of any county.

IV. And be it further enacted, That the clerk of the gaol sessions shall, on receiving a precept commanding him so to do, signed by any two justices of the peace acting for any of the ridings or divisions of the county, summon the justices to meet in a court of gaol sessions, by a notice to be published at least twice in some of the public newspapers most usually circulated in the county, which notice shall declare the day hour and place at which such court is to be held; and also at the said clerk, if the court of gaol sessions shall be dissolved without adjournment, or shall adjourn for a longer time than three calendar months, shall by a like notice, to be issued of his proper authority, without any precept in that behalf, summon a court of gaol sessions to be held within three calendar months next after such dissolution or last adjournment.

V. And be it further enacted, That the sessions for the county gaol shall be held in some place in the gaol, or within one mile thereof, unless there shall be special reasons for the contrary, which shall be expressed in the precept to be directed to the said clerk as aforesaid; and if it shall be

No. XX.
5 Geo. IV.
c. 12.

Sheriff to give Notice of the holding such Court.

Chairman and Clerk to be appointed.

Clerk of Gaol Sessions to continue in Office till another is appointed.

Notice of holding Gaol Sessions.

Place for holding Sessions.

No. XX.

5 Geo. IV.

c. 12.

Treasurer to be
appointed.

Proportions of
County Rates
to be paid by
each Riding or
Division.

In case of any
Dispute as to
the Proportions
in which the
Ridings or Di-
visions are to
contribute to-
wards the Ex-
pence of the
Gaol, the same
shall be settled
by Arbitration.

Order for Mo-
ney to be
transmitted to
Treasurers of the

held in the gaol, or within such distance thereof as aforesaid, all matters done thereat touching the county gaol shall be legal, though the sessions be held in some place not within the county.

VI. And be it further enacted, That the court of gaol sessions shall also elect a treasurer of the monies applicable to the repair of the county gaol, who shall not be the clerk of the said court; and the said treasurer shall receive and pay all monies to be raised for the repair of the county gaol, or to be disbursed by order of the court, and shall give discharges for the monies received, and apply the same as by such court shall be ordered, and shall keep a distinct account of such monies received and paid, and shall from time to time, when called on by the said court, account upon oath, if required, for all monies so by him received, and deliver in all vouchers respecting the same; and the said court shall from time to time appoint such salaries to such clerk and treasurer respectively as they shall think fit, to be paid out of the monies aforesaid; and such treasurer shall give such security for the faithful performance of his duty, as the court of gaol sessions shall direct.

VII. And whereas it is expedient that all the expences incurred respecting any county gaol, where the county is so divided as aforesaid, whether arising out of the provisions of the said recited Act or of this Act, or otherwise, should be discharged out of the county rates; and it is necessary to fix the proportions in which the several ridings or divisions shall contribute to such expences; and it may also be necessary from time to time to vary the said proportions: Be it therefore enacted, That where in any such county there are, at the time of passing this Act, any fixed proportions in which such expences are or have been paid and borne, such proportions shall continue to be acted on, and the contributions shall be paid accordingly, till some alteration shall be made therein by the court of gaol sessions; and that where there are now no such fixed proportions, the said court shall forthwith fix the proportions in which the contribution is to be made; and the said court shall also have power and authority to alter the said proportions from time to time; provided that no such alteration shall be made, unless the intention of making such alteration shall be expressed in the notice whereby the court is summoned, and shall be published for one month at the least before the court shall be held.

VIII. And be it further enacted, That when the court of gaol sessions shall order an alteration to be made in the proportions in which the ridings or divisions of the county are to contribute towards the expences of the county gaol, or shall negative a proposition for making such alteration, and any riding or division shall be dissatisfied therewith, it shall be lawful for the clerk of the peace of such riding or division, being thereunto authorized by an order of the court of quarter or gaol sessions of such riding or division, to apply to the justices of assize of the last preceding circuit, or of the next succeeding circuit, or to one of such justices, who shall by writing under their or his hands or hand nominate a barrister at law, not having any interest in the question, to arbitrate between the ridings or divisions; and such arbitrators shall summon the several clerks of the peace of the ridings or divisions interested in the matter in dispute to appear before him, at a time to be by him appointed, and there to produce all information touching the matter in dispute; and such arbitrator may, if he shall see fit, adjourn the hearing from time to time, and require all such further information to be afforded by either of the parties as shall appear to him meet and necessary; and shall, by his award in writing, determine the proportions in which such ridings or divisions shall contribute towards the said expences; and his award shall be final and conclusive between the parties for ten years, and until further order shall be made thereon by the court of gaol sessions; and such arbitrators shall also assess the courts of the arbitration, and shall direct by whom and out of what fund the same shall be paid.

IX. And be it further enacted, That when and so often as the court of gaol sessions shall find it requisite to raise money for the purposes of the said recited Act or of this Act, they shall make an order accordingly, and

their clerk shall forthwith transmit a copy of such order, signed by the chairman, together with the amount of the sum of money to be paid by virtue of it, according to the then existing proportions, by each riding or division, to the treasurers of the several ridings or divisions of the county; which treasurers shall forthwith out of the monies in their hands, or if those monies shall be insufficient, then so soon as sufficient monies shall come to their hands, pay the sum required to the treasurer of the county gaol, and take his receipt for the same.

X. And be it further enacted, That when the monies necessary to be raised for the purposes of the said recited Act or of this Act shall exceed one half of the ordinary aggregate amount of all the annual assessments for the rates of the several ridings or divisions of any such county, taken on an average of all such rates for the last seven years preceding, the court of gaol sessions may and is hereby authorized to mortgage all the rates of such county, by such instrument, and in such ways and means, and under such provisions of repayment, and with the same power of assignment, as in the said recited Act are enacted respecting the mortgage of any county rates therein mentioned.

XI. And be it further enacted, That the court of gaol sessions shall and is hereby required to charge all the rates upon the several ridings and divisions of the county, in the same manner and for the same purposes as in and by the said recited Act the justices in their general or quarter sessions are authorized and required to charge the rates of any county having one rate for the whole; and all the ways means and methods by the said recited Act directed and allowed, as to the repayment of monies borrowed and the interest thereof, and the accounts respecting the same, shall be kept and observed by the court of gaol sessions, respecting the monies borrowed on account of the gaol of any county so divided as aforesaid; provided that all the monies to be raised on the several ridings or divisions of any such county, for repaying money borrowed or the interest thereof, shall be raised in the same proportions as other monies for the purposes of the said recited Act or of this Act shall be raised at the time of such money being so raised.

XII. And be it further enacted, That all reports and statements directed by the said recited Act to be made to the general or quarter sessions, shall be transmitted on or before the first days of *January, April, July, and October*, to the clerk of the gaol sessions, and be by him laid before the court at the sessions.

XIII. And be it further enacted, That the chairman of the first court of gaol sessions held after the first day of *October* in each year, shall, within fourteen days after the determination of such sessions, or any adjournment thereof, transmit to one of his Majesty's principal secretaries of state such account of proceedings, and such copies of rules and regulations, as in and by the said Act are ordered to be transmitted by the chairman of the *Michaelmas* quarter sessions, and shall at the same time, or within three months afterwards, transmit such plans as in the said Act are mentioned.

XIV. And be it further enacted, That the return directed to be made annually by the keeper of every prison, in the form contained in the schedule annexed to the said recited Act, marked (B.), shall be annually made by the keeper of every gaol of every county so divided as aforesaid, and delivered to the clerk of the gaol sessions of such county. two weeks at least before the first day of *October* in each year; and that such clerk shall on the said first day of *October* prepare a general report founded on the report of the visiting justices and that of the chaplain, and on the certificates and reports of the keeper of the said gaol, and on any other report or document respecting the said gaol, and shall lay the same before the next gaol sessions; and such report, when approved by such sessions, shall be signed by the chairman thereof, and shall be by him, together with a copy of the schedule (B.), transmitted to one of his Majesty's principal secretaries of state, for the purposes in the said recited Act mentioned.

XV. And be it further enacted, That if any matter or thing be done By whom Con-
victions for Recovery of Fines, &c., shall be ma^d

No. XX.
5 Geo. IV.
c. 12.

Rates may be
mortgaged for
raising the
Mowey.

Rates on each
Riding or Divi-
sion to be
charged in same
Manner as Rates
on Counties by
recited Act.

Reports to be
transmitted,
and laid before
Court of Gaol
Sessions.

Reports, &c.,
to be transmit-
ted by Chair-
man of Court
of Gaol Ses-
sions to Se-
cretary of State.

Returns from
Keeper of Pri-
sons to be de-
livered to Clerk
of Gaol Ses-
sions.

No. XXI.
5 Geo. IV.
c. 85.

Common Gaol
of County to be
deemed within
each Riding or
Division.

Public Act.

Act may be al-
tered in the pre-
sent Session.

within any county so divided as aforesaid, for which any fine penalty or forfeiture is by the said recited Act imposed and directed to be paid to the county treasurer, every conviction made in pursuance of the said recited Act for such matter or thing, shall be made by one or more justices of the peace of the riding or division in which the offence is committed; and all forfeitures fines and penalties thereon accruing, shall be paid to the treasurer of the county gaol for the purposes of this Act.

XVI. And be it further enacted, That in the case of every county so divided as aforesaid, the common gaol of such county shall, for all purposes relative to the jurisdiction of justices of the peace, be deemed to be within and taken as part of each of the ridings and divisions of which such county is composed; and every justice of the peace for each of such ridings and divisions shall have like power and authority to execute all things appertaining to his office therein, as in any part of the riding or division to which his commission specially extends.

XVII. And be it further enacted, That this Act shall be deemed and taken to be a public Act, and shall be judicially taken notice of as such, by all judges justices and others, without being specially pleaded.

XVIII. And be it further enacted, That this Act may be altered amended or repealed, by any Act or Acts to be passed in this present session of Parliament.

[No. XXI.] 5 Geo. 4. c. 85.—An Act for amending an Act of the last Session of Parliament, relating to the building repairing and enlarging of certain Gaols and Houses of Correction; and for procuring Information as to the State of all other Gaols and Houses of Correction in *England and Wales*.—[21st June 1824.]

4 G. 4. c. 64.

Justices having
Charge of Gaols
for Cities, &c.,
may contract
with Justices
having Charge
of County Gaols
for care of Pri-
soners.

No Contract
entered into
without an Or-
der of the Quar-
ter Sessions.

Prisoners to be
committed to
the Prison con-
tracted for.

WHEREAS an Act was passed in the last session of Parliament, intituled *An Act for consolidating and amending the Laws relating to the building repairing and regulating of certain Gaols and Houses of Correction in England and Wales*: And whereas it is expedient that the said Act should in some respect be amended, and that provision should be made for ascertaining the state of all other prisons in *England and Wales*; be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That it shall be lawful for the justices of the peace, or any two of them, or for other persons having the government or ordering of any gaol or house of correction, in any city, town, borough, port, or liberty, to contract with the justices of the peace, having authority or jurisdiction in and over any gaol or house of correction of the county riding or division, wherein or whereto such city, town, borough, port, or liberty, is situate or adjacent, or with any two of them, for the support and maintenance, in such last-mentioned gaol or house of correction, of any prisoners committed thereto, from such city, town, borough, port, or liberty; provided that no such contract be entered into by any justices of the peace of any county riding or division without an order for that purpose being made at some general or quarter sessions, or gaol sessions, having jurisdiction in that behalf, nor by the justices or other persons having the government of the prison of any such city, town, borough, port, or liberty, without an order for that purpose being made at the sessions thereof; and every such contract may either be perpetual, or limited to a certain term of years, as the parties shall mutually agree; and during the existence of such contract, every prisoner who would otherwise be confined in the gaol or house of correction of the city, town, borough, port, or liberty, so contracting, may be lawfully committed or removed to and confined in the gaol or house of correction so receiving him or her under such contract; and all prisoners so confined by contract, whether before or after trial, shall be subject in all matters and things to the same rules and regulations as if they were committed thereto by any of the justices of the county riding

or division; and if committed before trial, shall be triable and tried in the same manner as if their offences had been committed in a part of the county riding or division, not within the city, town, borough, port, or liberty from whence such prisoners shall come; save only, that if the gaol or house of correction so receiving under contract a prisoner committed for trial, shall be situate within two miles of the usual place of trial of the city, town, borough, port, or liberty, wherein the offence charged against such prisoner shall be alleged to have been committed, it shall be lawful to try such prisoner in the manner heretofore accustomed, and for the magistrates or other proper officer of such city, town, borough, port, or liberty, to direct the removal of such prisoner for trial, and to do all other acts necessary for such trial, or consequent thereon.

II. And be it further enacted, That the monies to be paid under any such contract as aforesaid, shall be raised in the same manner as monies for defraying the expences of the gaol or house of correction for which a substitute shall be provided under such contract; and where such expences are not wholly defrayed from the same fund, and there shall arise a difference of opinion between the parties interested in the several funds applicable to the several purposes of the prison, as to the proportion in which those funds respectively shall contribute to the sum to be paid to the county riding or division, for the use of its prison, and such difference shall not be adjusted by agreement between themselves, it shall be lawful for either of such parties to apply to the justices of assize of the last preceding circuit, or of the next succeeding circuit, or to one of such justices, who shall by writing under their or his hands or hand, nominate a barrister at law, not having any interest in the question, to arbitrate between the parties; and such arbitrator may, if he shall see fit, adjourn the hearing from time to time, and require all such further information to be afforded by either of the parties, as shall appear to him meet and necessary; and shall, by his award in writing, determine the proportions in which such parties shall contribute towards the said expences; and his award shall be final and conclusive between the parties; and such arbitrator shall also assess the costs of the arbitration, and shall direct by whom, and out of what fund, the same shall be paid.

III. And be it further enacted, That during the existence of any such contract, if it shall extend to the whole of the prisoners who would otherwise be confined in the gaol or house of correction of the city, town, borough, port, or liberty so contracting, such city, town, borough, port, or liberty shall not be liable to indictment or impeachment for the non-repair of its gaol or house of correction respectively; and if such contract shall extend to only a certain class or classes of its prisoners, such city, town, borough, port, or liberty shall not be liable to provide the accommodation required to be otherwise provided for the same class or classes of prisoners by the said recited Act, or by any other Act now in force.

IV. And be it further enacted, That if it shall seem fit to the magistrates or superintending officers of any city, town, borough, port, or liberty, that instead of altering or building any gaol or house of correction for their separate use, or contracting under the provisions aforesaid, it would be more advisable to raise a sum or sums of money in aid of building a new or of enlarging a county prison, it shall be lawful for them to agree with the justices of the peace, having authority or jurisdiction in and over any gaol or house of correction of the county, riding or division wherein or whereto such city, town, borough, port, or liberty is situate or adjacent, or with any two of them, for the payment to such justices, having such authority as aforesaid, of any sum or sums of money to be by them applied in or towards the altering, enlarging, building, rebuilding, repairing, or improving such gaol or house of correction of the county riding or division aforesaid: Provided that no such agreement be entered into by any justices of the peace for any county riding or division, without an order for that purpose being made at some general or quarter sessions or gaol sessions, having jurisdiction in that behalf.

No. XXI.
5 Geo. IV.
c. 85.

Expences under
the Contract.

In case of Dis-
pute, to be set-
tled by Arbi-
tration.

During the
Contract, City,
&c., so con-
tracting not lia-
ble to provide a
Prison.

Magistrates,
&c., empowered
to borrow Mo-
ney for rebuild-
ing Gaols, &c.,
in case it should
appear more
advisable than
altering old
ones.

No. XXI.

5 Geo. IV.
c. 85.

Monies are to be raised for building Gaols, &c.
Money borrowed for rebuilding Gaols, &c., to be repaid to such City, &c., advancing the same.

Magistrates to report to the Secretary of State as to Contracts with Counties for the Use of Prisons.

Copy of Regulations of Prisons, and a Return to be made as in Schedule annexed, to the Secretary of State.

Statement of Establishment of Officers and Servants, showing the Increase or Diminution, to be transmitted to the Secretary of State.

V. And it is hereby further enacted, That all monies to be paid under any such agreement as last mentioned, shall be raised in the same manner, and subject to the same conditions, as is directed in respect of monies to be raised for the building or rebuilding, repairing or enlarging any gaol or house of correction under the provisions of this Act.

VI. Provided always, and it is hereby enacted, That it shall be lawful for such justices of the peace of any such county riding or division, entering into any such agreement as last aforesaid, to stipulate in the same (if they shall see fit so to do) that it shall be lawful for such county riding or division, at such time or times as shall be in that behalf provided in such agreement, to repay to the said city, town, borough, port, or liberty the sum or sums of money which shall have been so paid or advanced in or towards the altering, enlarging, building, rebuilding, repairing, or improving such gaol or house of correction of the county riding or division aforesaid.

VII. And be it further enacted, That the chief magistrate of every city, town, borough, port, or liberty now having a gaol or house of correction, in *England and Wales*, shall, in the month of *October* next, report to one of his Majesty's principal secretaries of state whether any contract has been made with the county riding or division, for the use of its prisons, or any of them, by such city, town, borough, port, or liberty, and to what classes of prisoners such contract, if any, shall extend; and if there be no such contract, whether any steps have been taken towards such contract; and if so, in what state the treaty is, and what obstacles there are to its completion; and the chief magistrate of every such city, town, borough, port, or liberty, where no such contract shall be in existence, shall, in the same month of *October*, transmit to one of his Majesty's principal secretaries of state, a copy of all such rules and regulations as shall be then in force for the government of every such prison, and a return in the form of the schedule to this Act annexed, marked (A.), and a statement of the establishment of officers and servants employed therein, specifying the number and description of such officers and servants, the salaries and emoluments of each, and by whom such officers and servants are respectively appointed, and a plan of every such prison, drawn upon a scale of one-sixteenth of an inch to a foot; and the said copies and plans shall be carefully preserved in the office of such secretary of state; and such magistrate shall, in every subsequent month of *October*, until such a contract shall be entered into, transmit to such secretary of state a return in the form of the said schedule, and a copy of all additions to such rules and regulations, or alterations made therein, and a statement of any increase or diminution in such establishment of officers and servants, or in their respective salaries and emoluments, together with plans, on the scale above mentioned, of any additions to the buildings of such prison, or alterations made in the construction thereof, during the preceding year.

VIII. And be it further enacted, That the chairman of the *Michaelmas* quarter sessions of the peace which shall be held next after the commencement of this Act, for every county, riding, division, district, city, town, or place to which the said recited Act shall extend, shall transmit within fourteen days after the commencement of such sessions, to one of his Majesty's secretaries of state, a true and correct statement of the establishment of officers and servants employed in every prison within the jurisdiction of the justices assembled at such sessions, specifying the number and description of such officers and servants, the salaries and emoluments of each, and by whom such officers and servants are respectively appointed; and the said statements shall be carefully preserved in the office of such secretary of state; and the chairman of every such succeeding *Michaelmas* quarter sessions shall transmit, within fourteen days after the termination of such *Michaelmas* quarter sessions, a true and correct statement of any increase or diminution in every such establishment of officers and servants, or in their respective salaries or emoluments, as have been made since the preceding *Michaelmas* quarter sessions.

IX. And be it further enacted, That so much of the said recited Act as relates to the cities of *Canterbury Lichfield* and *Lincoln*, shall be and the same is hereby repealed.

X. And whereas in some other counties and places to which the said recited Act extends, by reason of the small number of prisoners usually confined therein, it may not be necessary to provide the whole number of wards and airing grounds thereby required, but it is necessary to provide that in all prisons some certain means of classification should be secured; be it further enacted, That in every prison to which the said recited Act extends, except *Canterbury Lichfield* and *Lincoln*, provision shall be made for the following classification, at the least:

In all such gaols, the male and female prisoners shall be confined in separate wards or parts of the gaol. The male prisoners shall be divided into five classes: First, debtors, and persons committed for contempt of court on civil process: Second and third, prisoners convicted, who may be put into either of these classes, as to the visiting magistrates may seem meet, reference being had to the character and conduct of the prisoners, and the nature of their offence: Fourth and fifth, prisoners committed for trial, who may also be put into either of these two classes, as to the visiting magistrates may seem meet, reference being had in like manner to the character and conduct of the prisoners, and the nature of their offence.

The female prisoners shall be divided at least into three classes: First, debtors and persons committed for contempt of court on civil process: Second, prisoners convicted: Third, prisoners committed for trial.

In all such houses of correction, the male and female prisoners shall also be confined in separate wards or parts of the house. The male prisoners shall be divided into five classes: First and second, prisoners convicted, who may be put into either of such classes, as to the visiting magistrates may seem meet, regard being had to the character and conduct of the prisoners, and the nature of their offence: Third and fourth, prisoners committed for trial, in all houses of correction where such prisoners are received; such prisoners may be put into either of these classes, as to the visiting magistrates may seem meet, regard being had, as already mentioned, to the character and conduct of the prisoner, and the nature of his offence: Fifth, vagrants.

In places where the gaol and house of correction are united, the male prisoners shall be divided into six classes at least: First, debtors and prisoners committed for contempt of court on civil process: Second and third, convicted prisoners: Fourth and fifth, those committed for trial; such prisoners to be assigned to either of these classes of prisoners convicted or committed respectively, as to the visiting magistrates shall seem meet, regard being always had to the character and conduct of the prisoners, and the nature of their offence: Sixth, vagrants.

The female prisoners, in each of such houses of correction, shall be divided into three classes: First and second, prisoners convicted; the prisoners to be put into either of such classes, as to the visiting magistrates shall seem meet, regard being had to their character and conduct, and the nature of their offence; vagrants shall be assigned to one or the other of these classes, as the visiting magistrates, in their discretion, may see meet: Third, where females are committed to any house of correction before trial, they shall be kept in a class by themselves.

XI. And whereas in some counties of *Wales* it may be consistent with the due classification of the prisoners, to dispense with some of the wards or airing grounds required by the said recited Act and this Act; be it therefore further enacted, That if the court of quarter sessions of any county in *Wales* shall, during the present year, present a petition to the lords of his Majesty's Privy Council setting forth the whole number of prisoners imprisoned in the common gaol and house or houses of correction of such county, within the last seven years, with the causes of their imprisonment respectively, so as to exhibit in which of the classes prescribed by the said recited Act, or this Act, each such prisoner would have

No. XXI.
5 Geo. IV.
c. 85.

4 G. 4. c. 64.
repealed as to
Canterbury
Lichfield and
Lincoln.
Classification of
Prisoners.

Some Regulations may be dispensed with in Welch Counties.

No. XXI.
 & Geo. IV.
 c. 85.

been included, and showing also the greatest number of such prisoners imprisoned in such gaol and house or houses of correction, at any one time in each of the said seven years; and setting forth fully and particularly the then state of such gaol and house or houses of correction, and an estimate of the expence which would be incurred by enlarging such gaol, or such house of correction, to which the petition shall apply, so as to admit of the whole number of wards and airing grounds required by the said Act or this Act, and the amount of the county rate for each of the said seven years, and praying a dispensation with some part of the wards or other accommodations required by the said Act or this Act, which under the circumstances of such county may to such court appear unnecessary, it shall be lawful for the said lords of the Privy Council to take such petition into their consideration, and, if they shall see fit, to make an order thereon, directing in what manner and to what extent it shall be sufficient for such county to comply with the provisions of the said Act and this Act, and making such regulations touching the same as to them shall seem meet; and such county duly complying with such order, shall not be liable to be indicted, or otherwise impeached, for not further conforming itself to the regulations of the said Act and this Act, in regard to the extent of its prisons, or the wards into which they are divided, or the accommodation to be found therein; any thing in the said recited Act or this Act to the contrary notwithstanding.

As to Prisoners
 for Breach of
 Revenue Laws.

XII. And be it further enacted, That any person confined in any prison to which the said recited Act extends, for non-payment of any penalties incurred under the revenue laws, may be assigned to such class of convicted prisoners for whom a separate ward is therein provided, as the visiting magistrates in their discretion may think fit, regard being had to the character of the prisoner, and his or her conduct while in prison; and the reasons for assigning such prisoner to any particular class of convicts shall be reported by the visiting magistrates to the quarter sessions.

To prevent soli-
 tary Confinement.

XIII. And be it further enacted, That where, in any prison, there shall be only one prisoner belonging to any class in the said Act or herein specified, such prisoner may be assigned, with his or her own consent, to any other class of prisoners of the same sex, which the visiting magistrates in their discretion shall think fit.

Where Gaol
 and House of
 Correction are
 contiguous, the
 Chapel and In-
 firmary may be
 common to
 both.

XIV. And whereas by the said recited Act it is required, that when the gaol and house of correction are inclosed within the same boundary wall, it shall be ascertained and declared what part or parts shall be considered as the gaol, and what as the house of correction; be it further enacted, That notwithstanding any thing in the said Act contained, it may be lawful for the justices, in their general or quarter sessions, to declare in any such case that such parts of the buildings as shall be appropriated for the chapel, and for the sick wards or infirmaries, shall be common both to the gaol and to the house of correction, and that in that case a double set of wards shall not be necessary.

The Liability of
 Cities is not to
 be altered, as to
 the Description
 of Prisoners,
 or the Contribu-
 tion towards
 Expences.

XV. And be it further enacted, That nothing in the said recited Act or in this Act contained shall oblige any city, town, borough, port, or liberty, to provide in its gaol or house of correction accommodation for any class of prisoners who could not be lawfully committed to such prison before the passing of the said recited Act; and that nothing in the said recited Act or this Act contained shall alter or affect the liability of any bodies politic or corporate, or of the inhabitants of any parish township or place, or of any individuals bound by statute, tenure, custom, prescription, or usage, to repair or to contribute towards the repair of any prison, or to maintain or contribute towards the maintenance of the prisoners confined in any prison, or to pay or contribute towards the payment of any expences whatever connected with any prison, but that all such parties shall remain liable to all such charges as if the said recited Act and this Act had not been made.

4 G. 4. c. 61.

XVI. And whereas by the said recited Act it was made lawful for one or more visiting justice or justices of any prison to which the same extended, to authorize, by an order in writing, the employment of prisoners

committed for trial, with their own consent, in any such work as therein specified; be it hereby enacted and declared, That such consent of every such prisoner shall be freely given, and shall not be extorted or obtained by deprivation or threat of deprivation of any prison or other allowance; and that no prisoner before conviction shall, under any pretence, be employed on the tread-wheel; either with or without his consent.

shall be compelled to labour on the Tread-wheel previous

XVII. And whereas it has been doubted whether prisoners committed to prison for trial, who are unable to maintain themselves otherwise than by being employed in some kind of work or labour in prison, are entitled to receive any prison allowance of food without being required so to employ themselves; be it hereby enacted and declared, That such prisoners shall be allowed such food as may be sufficient for the support of health, without being obliged to perform any kind of work or labour as the condition of such allowance; and that any wages or portion of the same, which may become due to such prisoners from the keeper of any prison, in consequence of any order made by any visiting justice or justices of such prison, for the employment of such prisoners with their own consent, shall be paid to them as directed by such order, in addition to the food so allowed, and without any diminution of such allowance by reason of such payment.

XVIII. And whereas it may be found expedient in some places, for the purpose of building enlarging or rendering more commodious the gaol or house of correction, to fix upon lands or tenements over which rights of common exist; and in such case great difficulties may arise in purchasing and obtaining a conveyance of such commonable lands or tenements under the general powers of the said recited Act; be it therefore enacted, That for the purpose of the said recited Act and of this Act, and of any local Act relative to any such gaol or house of correction, the churchwardens for the time being of the parish wherein any such commonable lands or tenements shall be situate, shall be considered as the persons solely and absolutely entitled to the rights of common of pasture, or other commonable rights to which any such lands or tenements shall be subject; and that the monies for which any such commonable rights shall be purchased, shall be paid to such churchwardens, whose receipts shall be an effectual discharge for the same; and the same monies shall be applied by such churchwardens to such general and public purposes within the parish where the lands or tenements so purchased shall be situate, as a vestry of such parish, to be convened by such churchwardens, shall direct.

XIX. And be it further enacted, That for the purpose of receiving the notice required by the said recited Act to be given to persons interested in houses, buildings, lands, tenements, hereditaments, easements, or privileges contiguous to any gaol or house of correction, and deemed necessary for the purposes of enlarging the same, or rendering it more commodious, the occupier of such houses, buildings, lands, tenements, hereditaments, easements, or privileges, shall be deemed the person interested therein; and that every such occupier, upon receiving any such notice, shall forthwith transmit or deliver the same to any other person interested, under whom he may hold the houses, buildings, lands, tenements, hereditaments, easements, or privileges so deemed necessary.

XX. And whereas by the said recited Act, and by another Act passed in the present session of Parliament, intituled *An Act to facilitate, in those Counties which are divided into Ridings or Divisions, the Execution of an Act of the last Session of Parliament, for consolidating and amending the Laws relating to the building repairing and regulating of certain Gaols and Houses of Correction in England and Wales*; the justices of the peace in quarter sessions assembled have, in certain cases, authority to borrow on mortgage of the rate of the county, riding, division, district, city, town, or place, money for the purpose of building, rebuilding, repairing, or enlarging the gaol or house of correction, and to charge the said rate with such sum as shall ensure the payment of the whole sum borrowed, with interest, within fourteen years: And whereas, for the purpose of facilitating the reduction

No. XXI.

5 Geo. IV.

c. 85.

No Prisoner
to Conviction.

Prisoners to be
allowed sufficient
Food without being
obliged to
work.

Regulating the
Notices when
Commonable
Lands are re-
quired for a
Prison.

Notices to be
delivered to the
Occupier.

To enable Jus-
tices to bor-
row Money on
Mortgage of
Rate to pay off
Securities.

4 G. 4. c. 64.

5 G. 4. c. 12.

No. XXI.
5 Geo. IV.
c. 85.

of the rate of interest, it may be expedient that the county, riding, division, district, city, town, or place should have power to borrow in like manner, on mortgage of its rate, a further sum for the purpose of paying off the principal sum so borrowed and secured as aforesaid; be it further enacted, That whenever it shall appear to the justices assembled at any general or quarter sessions to be holden for any county, riding, division, district, city, town, or place, having contracted a debt under the said recited Acts, that advantage may arise from paying off the same and borrowing at a lower rate of interest, it shall be lawful for the justices so assembled to borrow on mortgage of such rate by instrument in the form directed by the said first recited Act, any sum or sums of money not exceeding in the whole the principal sum of money that may then be outstanding on the securities so theretofore granted, and therewith to discharge the whole or any part of the money for which such securities shall have been given: Provided always, that it shall not be lawful to use or apply any portion of the money to be borrowed under this provision, for any purpose other than the payment and discharge of the whole or part of the principal sum then due on the securities granted under the said recited Acts: Provided also, that the money to be borrowed under this provision shall be borrowed on such terms and under such conditions as shall in no way interfere with or prevent the full payment and discharge of the money borrowed under the provisions of the said recited Acts, and so that the rate to be raised in such county, riding, division, district, city, town, or place, shall within fourteen years from the time when the money was originally borrowed under the provisions of the said recited Acts, be discharged and released from all securities so made as aforesaid.

Amending the
Arbitration
Clause in
5 G. 4. c. 12.

XXI. And whereas by the said recited Act of the present session of Parliament, provision is made for settling by arbitration disputes between ridings and divisions, as to the proportions in which they shall contribute to the expence of the county gaol; but by reason of some verbal inaccuracies in the said provision, there may be some difficulty in acting thereon; be it therefore further enacted and declared, That the clerk of the peace may be authorized to apply to the justices of assize for the nomination of an arbitrator, under the said last-recited Act, by an order of the court or quarter or general sessions of the riding or division, and that one arbitrator shall be competent to exercise all the powers and authorities given to the arbitrator or arbitrators by the same Act; and that such arbitrator shall assess the costs of the arbitration, and direct by whom and out of what fund the same shall be paid.

Discharged Pri-
soners to be
afforded Means
of returning to
their Place of
Settlement.

XXII. And whereas it is desirable that more effectual means should be afforded, whereby prisoners discharged from prison should be enabled to return to their place of settlement; be it therefore enacted, That when any prisoner discharged from prison shall be desirous of being supplied with the means of so returning, it shall and may be lawful for any two visiting justices of such prison, upon application from such prisoner, to take the examination in writing upon oath of such prisoner, as to his or her last legal place of settlement; and upon such examination, and such other evidence as the said visiting justices may be able to procure, it shall be lawful for the said visiting justices, if they shall so think fit, to afford to such prisoner the means of returning to his or her place of last legal settlement, in the manner herein-after directed.

Engraved or
printed Forms
of Passes to be
provided for
Use of Visiting
Justices.

XXIII. And be it further enacted, That it shall be lawful for the justices of the peace of each and every county riding or division in *England*, in their general or quarter sessions assembled, to cause engraved copper plates or printed forms of passes to be provided, according to the form in schedule (B.) annexed to this Act, bearing his Majesty's arms and sealed with the county seal, or with a seal to be specially provided for that purpose; and the said justices may cause the same to be issued to the keepers of the several prisons within their respective counties ridings or divisions, for the use of the visiting justices of each such prison, whenever any prisoner or prisoners discharged from or about to be discharged from such prison shall apply to be furnished with the same; and the said visiting justices shall, if after a due consideration of the circumstances they shall

deem it expedient, fill up the blanks in every such pass and certify the same, and make out a route in the proper column for the purpose, of each such prisoner, and for the child or children, if any, of each such prisoner, specifying the place to which such prisoner and such child or children is or are going, and the time to which the said pass is (except in cases of sickness or unavoidable accident) limited, in order that such prisoner may receive such allowances as are authorized by this Act, not exceeding one penny halfpenny per mile for such prisoner, and one penny per mile for each child, which from being in a state of nurture or without other protection may have been confined in prison with such prisoner.

XXIV. And be it further enacted, That upon the production of such pass to any overseer of the poor of any place through which such discharged prisoner shall proceed, according to the route specified in such pass, he shall, out of any money in his hands applicable to the relief of the poor, pay such discharged prisoner an allowance not exceeding the rate per mile specified in such pass as aforesaid, for the number of miles to the next city town or place to which he or she may be going, and he shall indorse on such pass the money so paid, and take a receipt for the same from the discharged prisoner, signed with his or her hand or mark.

XXV. And be it further enacted, That the said sums so advanced by any overseer shall, upon production and delivery of such receipt to the treasurer of the county riding or division in which the parish or place of such overseer, be repaid, to such overseer, for the use of the fund for the relief of the poor of such parish or place, by the said treasurer.

XXVI. And be it further enacted, That every such discharged prisoner shall, at the last place of his or her receiving any allowance under this Act, deliver up such pass to the overseer of the poor advancing such allowance, who shall transmit the same to the keeper of the prison from which such prisoner shall have been discharged; and if there be indorsed upon such pass, or upon the cover thereof, the words "pass of a discharged prisoner," and the said pass be sent without a cover, or in a cover open at the sides, and without any paper or thing inclosed therein, and without any writing other than the matter of such pass and than the superscription upon the same, or upon the cover thereof, such pass shall be charged with the usual rate of postage at the post office of the town or place from which it shall be so sent, but the amount of the said postage shall be remitted and returned to the keeper of such prison on his producing such pass to the postmaster of the town or place to which such pass shall be sent as aforesaid; provided that such keeper shall have first signed the declaration contained in the schedule to this Act annexed, and that such declaration shall have been attested by one of the visiting justices of such prison, in the manner prescribed in the said schedule.

XXVII. And be it further enacted, That nothing in this Act contained shall extend to the royal hospital of *Bethlehem* and prison of *Bridewell*, nor to the *King's Bench* or *Fleet Prison*, nor to the prison of *Marshalsea* or palace courts, nor to the general penitentiary at *Milbank*, nor to the general penitentiary at *Gloucester*.

No. XXI.

5 Geo. IV.

c. 85.

Overseers of the Poor to pay a certain Allowance to Prisoners on producing their Pass.

County Treasurer to repay Overseer Money advanced.

Discharged Prisoner shall deliver up his Pass at the last place of receiving allowance.

Not to extend to certain Prisons, &c.

FORM of Annual Return

Note.—The Total of the
cond Division of the
of Columns 10 and 11.

32.—General Observations.

which this Act refers.

(A.)

to Secretary of State.

11. Number of Prisoners under 17 Years of Age.		12. Greatest Number of Prisoners at one Time.	13. Number of Prisoners who have been committed before.				14. Prisoners employed.		15. Prisoners not employed.	16. Punishments for Offences within the Prison.				17. Number of Solitary Cells and of Apartments below Ground.		18. Cases of Sickness and Death.		
Male.	Female.		Once.	Twice.	Three Times.	Four and more.	Hard Labour.	Employment, not being Hard Labour.		Whippings.	In Irons.	Solitary Confinement.	Other Punishments.	Solitary Cells.	Apartments below Ground.	Cases of Sickness in the Year.	Greatest Number of Sick at one Time.	Deaths.

Columns 4, 5, and 6, will be equal to the whole number of Prisoners in the Prison, expressed in the S Column No. 3; and the Aggregate of Columns 5 and 6 will be equal to that of Columns 8 and 9, and to th

No. XXI.
5 Geo. IV.
c. 85.

SCHEDULE (B.)

The King's Arms.

Certificate Route and Description of discharged Prisoners, under the 5th George IV.

CERTIFICATE.

WHEREAS by the Act of Parliament of the fifth *George Fourth*, cap. , prisoners discharged from prison may, upon application to the visiting justices of such prison, become entitled to certain allowances from the overseers of the poor of any place through which they may pass on their way to the places of their settlement, under authority of a route and certificate of two such visiting magistrates: And whereas

in appearance and the account he [or she] gives of himself [or herself] to the description after mentioned, has come before us, two of the visiting justices of the county gaol [or house of correction] at

and is deemed by us to be a fit object to receive the regulated allowances under the said Act; this is to certify the same, and to require the overseers of the poor of the places mentioned in the route, to issue to the said discharged prisoner the allowance specified in the said route, as required by the said Act of Parliament: Provided that the discharged prisoner produces the said route himself [or herself] and that the description corresponds with his [or her] appearance, and agrees with the account he [or she] gives of himself [or herself] and the number of children he [or she] has with him [or her]. Given under our hands and seals, this day of

corresponding
Seal and Signature
of the
Magistrate.

This pass to be in force for

days from the date hereof.

N. B.—To prevent frauds, all parish officers are not to give the allowances granted by the aforesaid Act under the authority of any other form of pass than this, which is prescribed in the schedule of the Act of Parliament aforesaid.

Route for to from in the county of in the county of

A. Names of Places through which the discharged Prisoner is to travel.	B. Rate per Mile for the discharged Prisoner and Children, if any.	C. Distance of Place where Relief is advanced, to that where it is to be continued.	D. Sum paid by each Overseer.	E. Signature of each Overseer, paying the discharged Prisoner.	Remarks.
Total Amount paid - - £					

Schedule (B.)—continued.

Directions for filling up these Passes:

The magistrate is to fill up the description, and to insert in the column marked A. the names of the places through which the discharged prisoner is to travel; and in the column marked B. (in words) the allowance per mile which he (or she) is to receive; and also to write the number of children in words, in the proper column in the third page; and when there are no children, to strike out that part of the form. In case of any mistake, the magistrate should make the necessary alteration with a pen, and write his name opposite thereto.

The overseer of the poor will insert in the column marked C. the distance of the place to which he advances the allowance; in that marked D. the sum he gives the discharged prisoner; and in that marked E. will sign his own name, specifying the parish for which he acts. He is also to take before a magistrate any person that presents a pass in which there are alterations other than with the pen, as above directed.

Description of the discharged Prisoner.

[illegible]

Memorandum for the Guidance of the Overseers of the Poor, Treasurers of Counties, and Keepers of Prisons.

Each overseer is to take a receipt from the discharged prisoner, signed with his (or her) name or mark, and he is to be reimbursed the money paid, by the treasurer of the county in which he serves the office of overseer, on giving him a receipt for the same, together with the discharged prisoner's receipt. The overseer who makes the last advance to carry the discharged prisoner to his place of residence, is to send the certificate route and pass to the keeper of the prison from which the prisoner was discharged; and the said keeper shall make and sign a declaration in the form herein next after annexed; which said declaration shall be attested by one visiting justice of the said prison.

Declaration of the Keeper of the Prison.

I ^{keeper of the county gaol [or keeper of the house of} correction or prison] at ^{in the county of} do declare that this pass hath come to me without cover [or in a cover open at the sides], and without any paper or thing inclosed therein, and without any writing other than the matter of such pass, and than the superscription upon the same or upon the cover thereof.

(Signed) *A. B.*

I, one of the visiting justices of the said prison do attest,
that after due examination I do believe the aforesaid declaration to be
true.

Dated this

day of

C. D.

No. XXIII.

7 Geo. IV.
c. 74.

[No. XXII.] 7 Geo. IV. c. 18.—An Act to authorize the Disposal of unnecessary Prisons in *England*.—[11th April 1826.]

[No. XXIII.] 7 Geo. IV. c. 74.—An Act for consolidating and amending the Laws relating to Prisons in *Ireland*.—[31st May 1826.]

Certain Acts
relating to Pri-
sons in Ireland
repealed; viz.
50 G. 3. c. 108.

55 G. 3. c. 92.

57 G. 3. c. 71.

59 G. 3. c. 84.

59 G. 3. c. 100.

3 G. 4. c. 64.

except as they
repeal former
Acts, and ex-
cept as to all
Matters done
before the com-
mencement of
this Act.

Grand Juries to
appoint a Board
of Superintende-
nce of the
Gaols within
the several
Counties, &c.,
in Ireland.

WHEREAS an Act made in the fiftieth year of the reign of his late Majesty, intituled *An Act for repealing the several Laws relating to Prisons in Ireland, and for re-enacting such of the Provisions thereof as have been found useful, with amendments*, and the several Acts for amending the same, have not proved sufficient for the purposes required; and it is expedient that the said Acts should be revealed, and that the regulations therein contained should be consolidated and amended: Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That from and after the commencement of this Act the said recited Act of the fiftieth year of his said late Majesty's reign shall be repealed; and that the several Acts herein-after mentioned shall also be repealed; that is to say, an Act made in the fifty-fifth year of his said late Majesty's reign, intituled *An Act to amend an Act of the Fiftieth Year of His present Majesty's Reign, relating to Prisons in Ireland, so far as concerns Contracts for building or repairing such Prisons*; an Act made in the fifty-seventh year of his said late Majesty's reign, for amending the said recited Act of the fiftieth year of his said late Majesty's reign; so much of an Act passed in the fifty-ninth year of his said late Majesty's reign, intituled *An Act to amend the Laws for repairing and improving the Roads and other public Works in Ireland by Grand Jury Presentments, and for a more effectual Investigation of such Presentments, and for further securing a true full and faithful Account of all the Monies levied under the same*, as in any way relates to gaols, bridewells, workhouses, houses of correction, or other prisons, so far only as the said Act or any of the provisions therein contained are contrary to this Act; another Act made in the fifty-ninth year of his said late Majesty's reign, intituled *An Act to amend an Act of the Fiftieth Year of the Reign of His present Majesty, relating to Prisons in Ireland*; and an Act made in the third year of the reign of his present Majesty, intituled *An Act to amend the Laws relating to Prisons in Ireland*; and the said several Acts and parts of Acts are hereby declared to be repealed accordingly; except so far as the said recited Acts, or any of them, repeal any former Act or Acts of Parliament; and also except so far as relates to all acts matters and things acted and done under the said recited Acts hereby repealed, or any of them, at any time before the commencement of this Act, all which acts matters and things shall be and remain good valid and effectual to all intents and purposes whatsoever; and also except as to the recovery and application of any penalty for any offence which shall have been committed against any of the said Acts previous to the commencement of this Act.

II. And be it further enacted, That from and after the commencement of this Act it shall and may be lawful for the grand jury of any county of a city or county of a town in *Ireland*, save and except the grand jury of the city of *Dublin*, and any and every such grand jury is and are hereby authorized empowered and required at each and every or any assizes or presenting term respectively, with the consent and approbation of the court or judge, to appoint not less than eight nor more than twelve persons, one half of whom at least shall be justices of the peace for the county county of a city or county of a town wherein such appointment shall take place, to be a board of superintendence of every gaol, bridewell, house of correction, or other prison within such county county of a city or county of a town respectively, and not being a prison of a dif-

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ferent county county of a city or county of a town; and that it shall and may be lawful for the grand jury at any subsequent assizes or presenting term for any such county county of a city or county of a town, to appoint a new board of superintendence, or to remove any member or members of the existing board, or to appoint so many new members of any such existing board as they shall think proper, and as the case may require, but so as that there shall not at any time be more than twelve members of any such board; and any three or more of such board of superintendence, one of whom at least shall be a justice of the peace, shall be in all cases competent to do and perform any matter or thing whatsoever in execution of any duty required to be done and performed, or which might be lawfully done and performed by the whole board of superintendence, in virtue of any powers granted to them by this Act, or by any other Act in which there shall not be an express provision to the contrary; and every act done or performed by such three members of such board of superintendence, one of whom at least shall be a justice of the peace, shall be as valid and effectual, to all intents and purposes whatsoever, as if done by the whole board of superintendence; and it shall and may be lawful for the grand jury of every such county county of a city and county of a town, to make all presentments of money under this Act to such board of superintendence to be by them appropriated to the several purposes for which such monies are intended; and also, if they shall think proper so to do, to present in advance to such board any reasonable sum or sums which such grand jury shall deem necessary for any of the purposes for which presentments are or shall be allowed by this Act, or by any Act which shall at any time or times be in force in *Ireland*, relating to repairs accommodation or discipline of prisons, or of the particular prison or prisons in respect of which such advance may be desired; and every sum so presented in advance shall and may be afterwards applied or applicable, by and under the orders of such board of superintendence, to the purposes for which the same shall be so presented respectively, and shall be afterwards duly accounted for according to law.

Grand Jury
may make Pre-
sentments to
such Board.

III. And be it further enacted, That it shall and may be lawful for such board of superintendence to inquire concerning the due performance of the rules and regulations in and by this Act prescribed and required to be observed in prisons throughout *Ireland*; and also concerning the due performance of such other rules and regulations as may have been or may from time to time be made by or under the authority of his Majesty's Court of King's Bench in *Ireland*, or with the approbation of any one or more of the judges of the said Court of King's Bench, as herein-after mentioned; and also to examine into the state and repair of the buildings, the conduct and situation of the prisoners in every or any such gaol, bridewell, house of correction, or other prison respectively, and of all persons concerned in the government or management thereof, or holding any office or employment therein or relating thereto respectively; and such board of superintendence are hereby authorized and empowered to examine on oath any officer, or any other person or persons whomsoever, touching the conduct of any officer of any such prison, or of any prisoner therein, or touching or relating to the government and management of such prison, and the promotion of industry and order therein, and the classification and distribution of offenders and prisoners in any such prison; and if it shall appear to the said board, by evidence on oath or otherwise, that the persons concerned in the government or management of any such prison, or any of them, or any person holding any office or employment therein or relating thereto, have misbehaved therein, by any neglect or breach or non-observance of the rules and regulations, or any of them, to which they were respectively bound by law to conform, then it shall be lawful for such board of superintendence, and they are hereby authorized and empowered to make a report respecting such misbehaviour to the next going judge of assize, and to the grand jury at the next assizes.

The Board em-
powered to visit
all Prisons, and
to examine
them, and the
Conduct of the
Officers, &c.

IV. And be it further enacted, That it shall and may be lawful for such The Board may
make Bye Laws for Gaols, which, when approved by Grand Jury and a Judge of the King's Bench,
shall be printed and become the Standing Regulations for such Gaols.

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7 Geo. IV.

c. 74.

Any Justice
may visit the
Prison, and re-
port Abuses to
the Board of
Superintenden-
ce.

For providing
distinct Apart-
ments Yards
and other Ac-
commodations
for different
Prisoners.

board of superintendence to make bye laws for each and every or any gaol or other prison under their superintendence, not inconsistent with the regulations contained in this Act; and that such bye laws, when approved by a succeeding grand jury, and by one or more of the judges of his Majesty's Court of King's Bench in *Ireland*, shall be printed and posted in the prison, and obeyed as standing regulations of such gaol or other prison; and it shall be the duty of the local inspector of every prison appointed under this Act, to see that such bye laws, and also all other regulations made by this Act, or by any competent authority under this Act, are carried into full force and effect, and that no magistrate shall have authority to alter or add to such bye laws or regulations, or in any manner to interfere with the discipline of the prison, and that the sheriff shall not interfere therein, further than may be necessary for the safe custody of the prisoners.

V. Provided also, and be it enacted, That it shall be lawful for any justice of the peace for any county county of a city or county of a town in *Ireland*, at his own free will and pleasure, to enter into and examine any prison of such county county of a city or county of a town, at such time or times, and so often as he shall see fit, and if he shall discover any abuse or abuses therein, he is hereby required to report them in writing to the board of superintendence to be appointed under this Act; and when and so often as a report of any abuse or abuses in any such prison shall be made by any such justice of the peace, the abuse or abuses so reported shall be taken into immediate consideration by the board of superintendence as aforesaid, and they are hereby required to adopt the most effectual measures for inquiring into and rectifying such abuse or abuses so soon as the nature of the case will allow,

VI. And be it further enacted, That every gaol, bridewell, marshalsea, penitentiary house, house of correction, sheriff's prison and other prison, in *Ireland*, of what nature or kind soever the same shall be, shall consist at the least of two separate parts, one for male and one for female prisoners, with a complete division between them, so as to prevent any intercourse between the said male and female prisoners; and that to each of the said parts there shall be annexed and belong a yard, of sufficient dimensions to enable the said prisoners to have the benefit of fresh air and exercise therein; and that in every such yard there shall be a necessary house or privy, to which such prisoners respectively shall have free access at all times, so far as the same can be consistently with the safe keeping of such prisoners; and that there shall be in every such yard a supply of good water; and that in every such prison there shall be a common hall for males, and another for females; and that in every county gaol or house of correction the most effectual means shall be adopted for the security, classification, health, inspection, employment, and religious and moral instruction of the prisoners; the building shall be so constructed or applied, and the keepers' and officers' apartments so situated, as may best ensure the safety of the prison, and facilitate the controul and superintendence of those committed thereto; distinct wards and dry and airy cells shall be provided, in which prisoners of the several descriptions and classes herein after enumerated may be respectively confined; and it shall be considered as a primary and invariable rule, that the male prisoners shall in all cases be separated from the female, so as to prevent any communication between them; provision shall be made for the separation of prisoners into the following classes:—If a gaol, first, debtors and persons confined for contempt of court on civil process; secondly, prisoners convicted of felony; thirdly, those convicted on trial of misdemeanors; fourthly, those committed on charge or suspicion of felony; fifthly, those committed on charge of misdemeanors or for want of sureties:—If a house of correction, first, prisoners convicted of felony; secondly, prisoners convicted upon trial of misdemeanors; thirdly, those committed on charge or suspicion of felony; fourthly, those committed on charge of misdemeanors; fifthly, vagrants:—Places of confinement shall also be set apart in every gaol and house of correction for such prisoners as are intended to be examined as witnesses in behalf of the Crown in any prosecutions; and such

further means of classification shall be adopted as shall be deemed conducive to good order and discipline; separate infirmaries shall be provided for the two sexes; and warm and cold baths or bathing tubs shall be introduced into such parts of the prison as may be best adapted for the use of the several classes; separate common halls and yards shall be allotted to the different classes for air and exercise, and each class shall have the use of a privy, and be furnished with a supply of good water; a separate sleeping cell shall, if possible, be provided for every prisoner, but as the numbers may sometimes be greater than the prison is calculated to contain under that arrangement, and as it is expedient that two male prisoners only should never be lodged together, a small proportion of cells or rooms shall be provided for the reception of three or more persons; every prison shall contain rooms and places properly fitted up for the exercise of labour and industry, and also a competent number of cells adapted to solitary confinement for the punishment of refractory prisoners, and for the reception of such persons as may by law be confined therein; one or more chapel or chapels shall be provided in every prison, in such a convenient situation as to be easy of access to all the prisoners, it shall be fitted up with separate divisions for males and females, and also for the different classes, and shall be strictly set apart for religious worship, or for the occasional religious and moral instruction of the prisoners, and shall never be appropriated to or employed for any other purpose whatsoever.

VII. And be it further enacted, That all and every the expence of building, purchasing, procuring, altering, enlarging, and repairing the marshalsea of the four courts in *Dublin*, and all and every penitentiary house or houses in *Ireland*, shall be discharged, and all and every rent payable for or in respect thereof, or of the ground or appurtenances thereof respectively, shall be paid out of the consolidated fund of the United Kingdom of *Great Britain* and *Ireland*; and the said expences of all county prisons, whether gaols, bridewells, houses of correction, sheriff's prisons, or otherwise, shall be defrayed by the respective counties counties of cities and counties of towns, by presentments on the said counties counties of cities or counties of towns, to be made by the grand juries thereof respectively; (to wit,) in the county of *Dublin* and county of the city of *Dublin*, at the presenting terms, and in the other counties counties of cities and counties of towns, at their respective assizes, save as herein-after particularly mentioned.

VIII. And be it further enacted, That every such presentment of any grand jury shall well and sufficiently describe and present the site of every such intended work, and the quantity and situation of the ground required for the same, and the plan and elevation thereof, either in the body of such presentment, or in a map, plan, chart, or schedule annexed to such presentment.

IX. And be it further enacted, That all presentments by this Act required to be made in the county and county of the city of *Dublin*, for the purposes of this Act, shall be good valid and effectual to all intents and purposes, and shall and may be paid and applied to the purposes of this Act, in addition to the amount of any presentments which may by law be made in the said county and county of the city, under and by virtue of any Act or Acts in force in *Ireland* at the time of the passing of this Act.

X. And be it further enacted, That it shall and may be lawful to and for the lord lieutenant or other chief governor or governors of *Ireland* for the time being, to order and direct, whenever he or they shall think proper, that the said marshalsea of the four courts shall be altered enlarged or repaired, or that a new marshalsea shall be built on the same or any other site or situation, and on any plan comprising the accommodations and advantages in that respect before mentioned, which he or they shall think proper; and in like manner, that any penitentiary house or houses shall be built, altered, enlarged, or repaired, at such time or times, on such plan or plans, comprising the said advantages, and in such place or places as he or they shall think proper; and to issue his and their order to the board of works for the executing of such work accordingly, who shall

Expences of building, &c., of Marshalsea and all Penitentiary Houses shall be paid out of the Consolidated Fund; Expences of County Gaols, &c., to be paid by Presentments.

Presentment shall describe the Site and Plan of Work proposed.

Presentments in *Dublin* shall be in addition to all others authorized by Law.

Lord Lieutenant may order the enlarging, repairing, &c., of the Marshalsea and Penitentiaries.

No. XXIII.

7 Geo. IV.

c. 74.

Grand Juries to
make Present-
ments for Ex-
pences of Coun-
ty Prisons;

and also for lay-
ing on Water
when deemed
expedient.

Penalty on ob-
structing the
laying of Water
Pipes.

Penalty on da-
maging Water
Pipes in Prisons.

cause the same to be executed according to such order, and in such way, whether by contract or otherwise, as shall be directed by such order, and for default of such direction, then and in such way as the said board shall think proper.

XI. And be it further enacted, That it shall and may be lawful for the grand juries of the several counties counties of cities and counties of towns in *Ireland* respectively, at the assizes and presenting terms respectively, and they are hereby required from time to time to inquire into the state of the gaols, bridewells, houses of correction, and other prisons of their respective counties counties of cities and counties of towns, and if they shall find them, or any of them, in want of repair or deficient in any of the accommodations or advantages aforesaid, they are hereby empowered and required to present such sum or sums as shall be deemed necessary to remedy such deficiency, whether by enlarging or altering the same, or by providing a new prison in lieu thereof, or by building any new and additional bridewell or bridewells, or house or houses of correction, or to effectuate such repair as may be necessary; and it shall be lawful for the grand jury, at any assizes or presenting term, to present one or more main or mains or pipes, of such bore or bores as they shall think proper, to be laid in the most convenient line to convey water to any such gaol or other prison, whenever they shall find it possible and deem it expedient so to do, and shall have the consent of the owner or owners of the water so to be conveyed, and accordingly at all times to convey water through the same, and to present such sum or sums as shall be necessary for the purpose; and also to present, at any assizes or presenting term, a reasonable sum to be raised upon the county county of a city or county of a town, and paid as a rent for the use of the water to be so conveyed, if the same shall be demanded: Provided always, that if any person or persons shall think they may be injured by the passing of such pipes or water-courses through their lands, they may at the said term or assizes, or at the term or assizes immediately following, enter in open court a traverse to the said presentment, which traverse shall be tried at the then or immediately succeeding term or assizes, unless the court shall see reason further to postpone the same; and the jury trying such traverse shall find on their oaths whether any and what damage will arise to the person or persons so traversing, and the verdict so found shall be conclusive to the party or parties; and either in the same or the next succeeding term or assizes, the grand jury of the said county county of a city or county of a town, shall and they are hereby required to present such sum so found, to be raised upon the county at large, and paid to such traverser or traversers; and upon the sum so found being paid or tendered, it shall be lawful for the overseers or persons employed by them to proceed to cause the said main or pipe to be laid, or watercourse to be made; and if any person or persons shall at any time obstruct the overseers, or the person or persons employed in laying such main or pipe, or making such watercourse, and shall be convicted thereof before any one justice of the peace for such county county of a city or county of a town, either upon confession of the party accused, or upon the oath of one credible witness, every such person shall for every such offence forfeit the sum of five pounds, to be paid to the treasurer of the county county of a city or county of a town, to be by him placed to the credit of the county county of a city or county of a town, to be levied by distress and sale of the goods and chattels of the person or persons so offending, upon the warrant of the justice of the peace before whom complaint shall be so made.

XII. And the better to preserve such pipe main or watercourse, when laid or made, be it enacted, That if any person or persons shall wilfully destroy or injure any part of the said pipe or main or watercourse, or of any pipe main or watercourse, through which water shall be conveyed to any prison in *Ireland*, or to any of the yards or buildings thereto belonging, so as to prevent the water from regularly and fully flowing to the same, or shall insert any cock or pipe into any part of such main, or make any cut to divert the water thereof to any other purpose, and shall upon indictment be convicted thereof, he or they shall be committed to the

county gaol, and shall therein remain in close confinement for one year, or until he or they shall pay a sum of fifty pounds, one half thereof to the treasurer of the county, to be by him placed to the credit of the county, and the other half thereof to the person or persons who shall discover and cause the said offender or offenders to be convicted.

XIII. And be it further enacted, That all bridewells which shall be built, repaired, purchased, or taken at a rent under this Act shall be deemed and taken to be county bridewells, to all intents and purposes.

XIV. And whereas fires or other sudden accidents may happen in any of the said gaols, bridewells, houses of correction, or other prisons, and in such case it may be necessary that such gaol, bridewell, house of correction, or other county prison should be repaired before there can be any opportunity to make provision as aforesaid; be it enacted, That in case any fire or other sudden accident shall happen in any of the gaols, bridewells, houses of correction, or other county prisons aforesaid, it shall and may be lawful to and for the board of superintendence of such county county of a city or county of a town, appointed under this Act, and in the city of *Dublin* for any three or more justices of the peace or magistrates, to cause an estimate and valuation to be then forthwith made of the sum necessary to be expended on the repair and preservation of such gaol, bridewell, house of correction, or other county prison, and to cause such repair to be made; and that thereupon it shall and may be lawful for any three or more justices of the peace for such county county of a city or county of a town, being members of the board of superintendence, or three or more justices of the peace or magistrates in the city of *Dublin*, as aforesaid, after having jointly inspected the said damage, to make an order under their hands and seals on the treasurer of such county county of a city or county of a town, to pay or advance to any person or persons specified in such order such sum or sums of money as may be necessary to complete such repair, not exceeding the sum of one hundred pounds, which sum or sums the said treasurer is hereby required to pay, provided he has in his hands money of the said county county of a city or county of a town, sufficient for that purpose; which sum so paid shall be replaced by presentment to be made for that purpose in manner aforesaid, at the first opportunity which shall occur after the payment thereof.

XV. And be it further enacted, That in every county county of a city or county of a town, in which a certain rent is or shall be payable for the gaol, bridewell, house of correction, or other prison of such county county of a city or county of a town, or any part thereof, or any of the appurtenances thereof, the grand juries of such counties counties of cities or counties of towns respectively, at their assizes or presenting term, shall present yearly such rents to be raised upon their respective counties counties of cities or counties of towns; and the money so presented shall be raised and paid to such persons to whom such rents are or shall be respectively payable, without any deduction whatsoever.

XVI. And be it further enacted, That if at any time it shall be thought proper to build alter or enlarge any gaol, bridewell, house of correction, or other prison or prisons of any county county of a city or county of a town, and the sum or sums which shall be necessary for that purpose shall be greater than it may be proper to raise on such county county of a city or county of a town, in one half year, then and in every such case it shall be lawful for the grand jury thereof, at any assizes or presenting term, to present in the first instance the whole sum or sums to be expended therein, and to direct in and by such presentment or presentments that the same shall be raised on such county county of a city or county of a town, by any half-yearly or yearly sums or instalments, in manner and at the times therein specified, and the same shall be so raised accordingly: Provided always, that it shall be lawful for any subsequent grand jury to present, that any of the said instalments shall be increased to any sum which shall be found necessary or proper.

XVII. And for the more speedy completion of any such work, be it enacted, That so soon as such presentment or presentments shall be vance to the Treasurers of Counties the Sums presented for, to be repaid out of such Instalments.

No. XXIII.

7 Geo. IV.
c. 74.

Bridewells.

How Gaols
shall be repaired
in case of
Accidents.Presentment for
Rent of Gaols,
&c.The whole Expenses to be
presented for,
and to be raised
by Half-yearly
Instalments.

Lord Lieutenant may advance

No. XXIII.

7 Geo. IV.

c. 74.

Appointment of
Commissioners
of Works by
Grand Juries.

Commissioners
shall give No-
tice of Present-
ment and in-
tended Con-
tract.

Plan of Build-
ing, &c., shall
be approved of
by Lord Lie-
tenant.

made, or at any time or times after making of such presentment or presentments, and before the completion of such work, it shall and may be lawful to and for the lord lieutenant or other chief governor or governors of *Ireland* for the time being, if he or they shall think proper so to do, to cause to be advanced out of the consolidated fund of the United Kingdom of *Great Britain and Ireland*, to the treasurer of such county, county of a city or county of a town, on the faith of such presentment or presentments, the whole of the sum so presented, or so much thereof as shall not have been raised or received at the time of such advance, or any part share or proportion thereof; such sum or sums to be applied by such treasurer to the purposes of such presentment or presentments, in the same manner in all respects as if the same had been raised by or under the same, and to be repaid by such treasurer for the time being to the collector of Excise of the district, but without interest, out of such instalment or instalments as may be specified at the time of advancing the same; a certificate whereof shall be given, without stamp, by such treasurer at the time of receiving such money.

XVIII. And be it further enacted, That when any presentment shall be made for building, rebuilding, repairing, finishing, altering, or enlarging any gaol, bridewell, house of correction, or other county prison or prisons as aforesaid, it shall and may be lawful for the grand jury making such presentment or presentments, to appoint not less than six nor more than twelve persons to be commissioners for causing the said presentment or presentments to be carried into execution and effect, and if they shall not do so, or if any of the persons so appointed shall die, or shall cease to act as such commissioner, before such work shall be completed, then and in every such case it shall and may be lawful for any succeeding grand jury to appoint such commissioners, or to complete the number thereof, as the case may require, or to add to the same, but so as that there shall not at any one time be more than twelve such commissioners; and any three or more of such commissioners shall be in all cases competent to do any act which the whole of the said commissioners could or might lawfully do; and that any three of such commissioners, duly assembled for the discharge of any business, or for the execution of any power or authority of the said commissioners, shall to all intents and purposes be deemed and taken to be such commissioners as fully as if all such commissioners were actually present and concurring in any Act.

XIX. And be it further enacted, That such commissioners after such presentment or presentments made as aforesaid shall give notice of such presentment or presentments having been made, three times at least in some public newspaper circulating in or near such county county of a city or county of a town, of their intention of contracting with any person or persons for building, rebuilding, repairing, finishing, altering, or enlarging any such gaol, bridewell, house of correction, or other prison or prisons, or for the laying such main or pipe to such gaol, bridewell, house of correction, or other prison or prisons as aforesaid, or for doing any part or parts of any such work.

XX. Provided always, and be it enacted, That nothing in this Act contained shall extend to authorize any such grand jury or grand juries, or commissioners appointed by them, and that it shall not be lawful for any grand jury, or such commissioners, to begin to build or rebuild or to alter or enlarge any such gaol, bridewell, house of correction, or other county prison, until the plan and site thereof, and also the contract or contracts upon which the same is proposed by the commissioners to be executed, or copies or fac similies thereof, shall, after having been previously approved of by the grand jury, be transmitted to the lord lieutenant or other chief governor or governors of *Ireland* for the time being, together with the report of the inspectors general of prisons, or of one of them, nor until the same shall be agreed to and approved of by the lord lieutenant or other chief governor or governors of *Ireland* for the time being; and that it shall not be lawful for the grand jury to vary or depart from the plan site or contract so agreed to and approved, without the consent of the lord lieutenant or other chief governor or governors of *Ireland*.

XXI. And be it further enacted, That it shall and may be lawful for such commissioners, and they are hereby authorized and empowered, to enter into contracts for the execution of any such work after such approbation, first by the grand jury, and then by the lord lieutenant or other chief governor or governors of *Ireland* for the time being; and every such contract or contracts shall be made at the most reasonable price or prices which shall be proposed by such contractor or contractors as shall be deemed by the said commissioners the most responsible and proper persons to carry such contract or contracts into execution respectively; and all such contract or contracts shall be entered by the clerk to the said commissioners in a book to be kept by the said commissioners, which book, when such works are completed, shall by the said clerk to the commissioners be delivered to the respective clerks of the peace for the time being, who are hereby required to keep the same among the records of the county county of a city or county of a town.

XXII. And be it further enacted, That every contractor with the said commissioners for any of the purposes herein-before mentioned shall, before such contract shall be deemed valid and effectual, give sufficient security by recognizance in double the amount of the sum contracted to be paid for such work, to be approved by the said respective commissioners, for the due performance thereof; such security to be by bond to his Majesty, his heirs and successors, and to be delivered to the clerk of the peace for the county county of a city or county of a town, to be kept among the records thereof respectively.

XXIII. And be it further enacted, That all and every the grand juries aforesaid shall have full power and authority to rent or purchase any houses, buildings, lands, tenements, or hereditaments which may be necessary for the site of such new gaol or other prison or prisons, or adjoining to such old gaol or other prison or prisons, for the purpose of enlarging the same, or the courts or outlets thereunto belonging, and which shall be mentioned as such in such presentment, or in any chart or schedule annexed thereto; and to direct the houses, buildings, lands, tenements, and hereditaments, so rented or purchased, to be conveyed to such commissioners as the said grand jury or grand juries shall have so appointed as aforesaid, and to their heirs, executors, administrators, and assigns, in trust for the uses and purposes aforesaid.

XXIV. And be it further enacted, That it shall and may be lawful to and for all bodies politic, corporate or collegiate, corporations aggregate or sole, tenants for life or in tail, husbands and guardians of such tenants for life or in tail, or of tenants in fee simple, trustees and feoffees in trust, committees, executors, and administrators, and all other trustees or persons whomsoever, not only for and on behalf of themselves, their heirs and successors, but also for and on behalf of their cestuie trusts, whether infants, issue unborn, lunatics, idiots, femmes covert, or other person or persons, and to and for all femmes covert who are or shall be seised possessed or interested in their own right, or entitled to dower or other interest, and for all other persons whomsoever who are or shall be seised or possessed of, interested in, or entitled unto any estate or interest in any manner whatsoever, in any lands, grounds, houses, tenements, edifices, erections or buildings which by the said grand juries respectively shall be thought necessary to be rented or purchased for any of the purposes of this Act, and so presented as aforesaid, to contract for, and by deed indented and inrolled to demise sell or convey all or any such lands, grounds, houses, tenements, edifices, erections, or buildings, or any part thereof, and all the respective estates and interests therein, to the said commissioners, and their heirs, executors, administrators, and assigns; and that all contracts, agreements, bargains, sales, and conveyances, which shall be so made by such persons as aforesaid, shall be good and valid in the law to all intents and purposes whatsoever, any law, statute, usage, or custom to the contrary thereof in anywise notwithstanding; and all bodies politic corporate or collegiate, and all persons whosoever, so contracting, demising, selling, or conveying as aforesaid, are hereby

No. XXIII.

7 Geo. IV.

c. 74.

Commissioners
empowered to
contract.

Contractors
shall give Secu-
rity by Recog-
nizance.

Renting or pur-
chasing Houses,
Grounds, &c.

All Persons in-
terested em-
powered to sell.

No. XXIII.

7 Geo. IV.

c. 74.

Jury to be summoned in case of Refusal to sell, &c.

Jurymen may be challenged, but not the Array.

When County Prison is to be built in a Town, the valuing Jury shall be summoned from the County.

indemnified for or in respect of any such sale which he she or any of them shall respectively make by virtue or in pursuance of this Act; and such commissioners, and their heirs, executors, administrators, and assigns, shall be trustees of all such houses, lands, tenements, and hereditaments as shall be conveyed to or vested in them under or by virtue of this Act, for the purposes herein provided, and no other.

XXV. And be it further enacted, That if any body or bodies politic or corporate, or other person or persons having or claiming to have any estate, title, term, or interest in or to such lands, grounds, houses, tenements, edifices, erections, or buildings as aforesaid, or any charge lien or incumbrance thereon, shall refuse to agree or shall not agree with the said grand juries respectively, for the sale and conveyance of their respective rights terms and interests therein, or shall not produce or evince a clear title to such estate, rights, titles, terms, or interests as they shall or may so claim, or if the said grand juries respectively shall be ignorant who are entitled to the same, then and in every or any such case it shall and may be lawful to and for the said commissioners, and they are hereby empowered and authorized, from time to time to issue a warrant or warrants, precept or precepts, to the sheriff of the county or county of a city or county of a town, wherein the lands, grounds, tenements, or hereditaments so to be purchased respectively shall be situate, or to such other proper sheriff as herein-after is provided; and such sheriff is hereby authorized directed and required accordingly to impannel summon and return a competent number of substantial persons qualified to serve on juries, not less than sixty nor more than eighty, out of which persons so to be impanelled summoned or returned, a jury of twelve persons shall be drawn by some person to be by the said commissioners appointed, in such manner as juries for the trials of issues joined in his Majesty's four courts at *Dublin* are or shall then be by law directed to be drawn in *Ireland*; which persons so to be impanelled summoned and returned as aforesaid, are hereby required to come and appear before the said commissioners at such time and place as in such warrant or warrants or precept or precepts shall be directed and appointed (such time not being less than seven days nor more than fourteen days after such warrant or warrants or precept or precepts shall be served upon such persons), and to attend the said commissioners till discharged by them; and all persons concerned shall and may have their lawful challenges against any of the said jurymen, but shall not be at liberty to challenge the array: Provided always, that fourteen days' notice at the least, in writing under the hands of the said commissioners, of the time and place of any such jury so being impanelled summoned and returned, shall be and is hereby required to be inserted in the *Dublin Gazette*, and also to be given to the owners, proprietors, occupiers, corporations, trustees, or any other person or persons interested in any such land, ground, houses, tenements, edifices, erections, or buildings, or to be left at the respective dwelling-houses or places of abode of such person or persons, or of the proper officer or officers of such corporations, at the house or houses of the tenant or tenants in possession of land, ground, houses, tenements, edifices, erections, or buildings.

XXVI. Provided always, and be it enacted, That if any prison shall be built or intended to be built within any county of a city or county of a town, and shall be or shall be intended to be the prison of any county at large, then and in every such case the warrant or warrants or precept or precepts (herein-before directed to be issued by the commissioners to the sheriff of the county county of a city or county of a town wherein the land, ground, tenements, or hereditaments to be purchased shall be situate) shall be directed to the sheriff of the county to which such prison shall belong, and the sheriff of such county shall return a panel, and a further panel as aforesaid, if necessary, of his proper county; and such proceedings being thereon had as herein directed in all other respects, the same shall be as binding and shall have all and every other the same effects and consequences as if such jury process had gone to the sheriff in whose bailiwick such premises lay.

XXVII. And be it further enacted, That in any case of trial by jury before the said commissioners, where a full jury shall not appear before them, or where, after the appearance of a full jury, it shall so happen, either by means of challenges or otherwise, that there shall be a default of twelve jurors for such trial, it shall and may be lawful to and for the said commissioners to command the sheriff of the county county of a city or county of a town, to impannell so many other persons as shall make up a full jury of twelve men, which persons so to be impannelled shall be added to the former panel; and all parties interested in such trials shall have their challenges to the jurors so added to the former panel, as if they had been originally summoned; and the said commissioners are hereby authorized and empowered, by precept or precepts, from time to time as occasion shall require, to call before them all and every person and persons whatsoever who shall be thought proper or necessary to be examined as a witness or witnesses before them, on their oath or oaths, touching or concerning the premises; and the said commissioners, if they shall think fit, shall and may likewise authorize and require the said jury to view the grounds, houses, tenements, or buildings, intended to be valued, and shall have power to adjourn such meeting from day to day and place to place, or to any future day, as occasion shall require, and to command such jury witnesses and parties to attend until the business for which they shall be so summoned by virtue of this Act shall be concluded; and the said jury shall upon their oaths (which oaths, as also the oaths to such person or persons as shall be called upon to give evidence, the said commissioners are hereby required and empowered to administer,) fairly truly and impartially inquire of the value of such grounds, houses, tenements, and buildings, and of the respective estate, right, title, term, and interest of every person or persons seized or possessed thereof or interested therein, or of or in any part thereof, and shall assess or award the sum or sums to be paid to every such person or persons for the purchase of such their respective estates, rights, titles, terms, and interests, and shall and may also inquire ascertain and find all and all manner of charges and incumbrances and liens thereon, and the amount of the sum or sums due thereon respectively, and what estate and estates therein are subject to any such liens or charge respectively; and the said commissioners, or any three or more of them, shall and may give judgment for such sum and sums so to be assessed, as and for the value of the said several estates in the said lands tenements and hereditaments, and for the payment thereof respectively, in manner herein-after mentioned; which said verdict or verdicts, and the said judgment decree or determination thereupon, shall be binding and conclusive to all intents and purposes whatsoever, against all bodies politic or corporate, infants, lunatics, idiots, femes covert, tenants for life or in tail, and all persons under any legal disability whatsoever, and against all and every person and persons whomsoever, his her or their heirs, successors, executors, administrators, having or claiming to have or claim any estate, right, trust, use, or interest in to or out of the said grounds, houses, tenements, buildings, and premises, either in possession or reversion, remainder or expectancy, or in any manner whatsoever, or in any charge lien or incumbrance thereon; which said verdicts judgments and decrees, and all other proceedings of the said commissioners, and such judgments to be made given and pronounced as aforesaid, shall be fairly written on parchment, and signed and sealed by the major part of the said commissioners who were present and pronounced such judgments and decrees, and all verdicts of the said juries, and all judgments, decrees, orders, and other proceedings of the said commissioners, shall be entered in the rolls office of his Majesty's High Court of Chancery in *Ireland*; and the same, or true copies thereof, shall be deemed and taken to be good evidence thereof in any court of law or equity whatsoever.

XXVIII. And be it further enacted, That upon payment or tender of such sum or sums of money as shall have been contracted or agreed for between the parties, or determined and adjusted by any jury in manner respectively herein-before provided, for the purchase or rent of

No. XXIII.

7 Geo. IV.

c. 74.

On Default of
Twelve Jurors,
others to be
summoned.

Summoning
Witnesses.

Commissioners
may authorize
Jury to view
Grounds, &c.
Power of Ad-
jourment.

Verdicts shall
be final against
all Parties.

Judgments to be
written on
Parchment.

Proceedings to
be registered.

Power to enter
on Payment or
Tender of the
Purchase
Money.

No. XXIII.

7 Geo. IV.

c. 74.



any such lands, grounds, houses, tenements, or other hereditaments, to the proprietor or proprietors of any such lands, grounds, houses, tenements, or hereditaments, or to such other person or persons as shall be interested therein or entitled to receive such money in manner herein provided respectively, at any time after the same shall have been so agreed for or determined; or if the person or persons so entitled or interested, or any of them, cannot be found, or shall refuse to receive the same, or shall not be able to make a good title to such lands, grounds, houses, tenements, or hereditaments, to the satisfaction of the said commissioners, or shall refuse to execute a conveyance or conveyances of such lands, grounds, houses, tenements, or hereditaments, which shall be required for the purposes of this Act, under the powers and authorities herein contained, then upon payment of the said sum or sums of money into the Bank of *Ireland*, as herein-after directed and required (in case the same shall be requisite), for the use of such person or persons so interested or entitled as aforesaid, it shall be lawful for the said commissioners, and their agents servants and workmen, immediately to enter upon and into such lands, grounds, houses, tenements, and other hereditaments respectively; and the fee simple and inheritance thereof, together with the yearly profits thereof, and all the estate, use, trust, and interest of any person or persons therein, shall from thenceforth be vested in and become the sole property of such commissioners for the purposes of this Act; and such payment or tender or investment shall not only bar all right, title, claim, interest, and demand of the person or persons to whom such payment or tender shall or ought to have been made, but shall extend to and be deemed taken and construed to bar the dower of the wife of every such person, and all estates tail and other estates in reversion and remainder of his her and their issue, and of any and every other person or persons whomsoever therein.

Application of
Purchase Mo-
ney when
amounting to
200l. or up-
wards.

XXIX. And be it further enacted, That if any money shall be agreed or awarded to be paid for any land, ground, houses, tenements, or hereditaments, or for any other matter right or interest, of what nature or kind soever, purchased taken or used by virtue of the powers of this Act, for the purposes thereof, which shall belong to any corporation, feme covert, infant, lunatic, or other person or persons under any disability or incapacity as herein-before mentioned, such money shall, in case it shall amount to or exceed the sum of two hundred pounds, with all convenient speed be paid into the Bank of *Ireland*, in the name and with the privity of the accountant-general of the Court of Chancery in *Ireland*, to be placed to his account *ex parte* the said commissioners, together with the name or names of such person or persons as any three of the said commissioners shall by writing signed by them appoint; to the intent that such money shall be applied, under the direction and with the approbation of the said court, to be signified by any order made upon a petition to be preferred in a summary way by the person or persons who would have been entitled to the rents and profits of such lands, grounds, houses, tenements, or hereditaments, in or towards the discharge of any debt or debts, or such other incumbrances, or part thereof, as the said court shall authorize to be paid, affecting the same land, ground, houses, tenements, or hereditaments, or affecting other land, ground, houses, tenements, or hereditaments standing settled therewith to the same or the like uses intents or purposes; or where such money shall not be so applied, then the same shall be laid out and invested, under the direction and approbation of the said court, in the purchase of other land, ground, houses, tenements, or hereditaments, which shall be conveyed to for and upon such and the like uses, trusts, intents, and purposes, and in the same manner as the land, ground, houses, tenements, and hereditaments, which shall be purchased taken or used as aforesaid, stood settled or limited, or such of them as at the time of making such conveyance shall be existing undetermined and capable of taking effect; and in the meantime and until such purchase shall be made, the said money shall, by order of the said Court of Chancery upon application thereto, be invested by the said accountant-general, in his name, in the purchase of any stocks funds or

annuities transferrable at the Bank of *Ireland*; and in the meantime and until the said stocks funds or annuities shall be ordered by the said court to be sold for the purposes aforesaid, the dividends and annual produce of such stocks funds or annuities shall from time to time be paid, by the order of the said court, to the person or persons who would for the time being have been entitled to the rents and profits of the said lands tenements and hereditaments so hereby directed to be purchased, in case such purchase or settlement were made.

XXX. And be it further enacted, That if any money so agreed to be paid for any land, ground, houses, tenements, or hereditaments purchased taken or used for the purposes aforesaid, and belonging to any corporation, or to any person or persons under any disability or incapacity as aforesaid, shall be less than the sum of two hundred pounds, and shall exceed the sum of twenty pounds, then and in all such cases the same shall, at the option of the person or persons for the time being entitled to the rents and profits of the land, ground, houses, tenements, or hereditaments so purchased taken or used, or of his her or their guardian or guardians, committee or committees, in case of infancy or lunacy, to be signified by writing under their respective hands, be paid into the Bank of *Ireland*, in the name and with the privity of the said accountant-general of the Court of Chancery, and to be placed to his account as aforesaid, in order to be applied in manner herein-before directed; or otherwise the same shall be paid at the like option to two trustees, to be nominated by the person or persons making such option, and approved of by the said commissioners; or any three of them, such nomination and approbation to be signified in writing under the hands of the nominating and approving parties, in order that such principal money, and the dividends arising thereon, may be applied in manner herein-before directed, so far as the case be applicable, without obtaining or being required to obtain the direction or approbation of the said Court of Chancery.

XXXI. And be it further enacted, That where such money so agreed or awarded to be paid as herein-before mentioned shall be less than twenty pounds, then and in all such cases the same shall be applied to the use of the person or persons who would for the time being have been entitled to the rents and profits of the land, ground, houses, tenements, or hereditaments so purchased taken or used for the purposes of this Act, as the said commissioners shall think fit, or in case of infancy or lunacy, then to his her or their guardian or guardians, committee or committees, to and for the use and benefit of such person or persons so entitled respectively.

XXXII. And be it further enacted, That in case the person or persons to whom such sum or sums of money shall be so ordered to be paid as aforesaid shall not be able to make a good title to any such land, ground, houses, tenements, or hereditaments, to the satisfaction of the said commissioners, or shall refuse to execute such conveyance or conveyances, or in case such person or persons to whom such sum or sums of money shall be so ordered to be paid as aforesaid cannot be found, or if the person or persons so entitled to such lands, grounds, houses, tenements, or hereditaments be not known or discovered, then and in every such case it shall be lawful for the said commissioners to order the said sum or sums so awarded to be paid into the Bank of *Ireland*, in the name and with the privity of the accountant-general of the said Court of Chancery, to be placed to his account to the credit of the parties interested in the said lands, grounds, houses, tenements, or hereditaments [describing such parties], subject to the order controul and disposition of the said court: which said court, on the application of any person or persons making claim to such sum or sums of money, or any part thereof, by motion or petition, shall be and is hereby empowered, in a summary way of proceeding or otherwise, as to the said court shall seem meet, to order the same to be laid out and invested in the public funds, or to order distribution thereof, or payment of the dividends thereof, according to the respective estate or estates, title or interest, of the person or persons making claim thereunto, and to make such other order in the premises

No. XXIII.

7 Geo. IV.

c. 74.

When less than
200*l.*, and above
20*l.*

When under
20*l.*

In case of not
making out a
good Title, &c.,
the Money to
be paid into the

No. XXIII.

7 Geo. IV.

c. 74.

Where Question shall arise touching the Title to any Money, Persons in possession deemed entitled.

Court may order reasonable Expenses of Purchases to be paid by Commissioners.

Mortgagees not in possession to assign and convey.

as to the said court shall seem just and reasonable; and the cashier or cashiers of the Bank of *Ireland*, who shall receive such sum or sums of money, is and are hereby required to give a receipt or receipts for such sum or sums, mentioning and specifying for what and for whose use the same is and are received, to such person or persons as shall pay any such sum or sums of money into the said bank as aforesaid.

XXXIII. And be it further enacted, That where any question shall arise touching the title of any person to any money to be paid into the Bank of *Ireland*, in the name and with the privy of the accountant-general of the said Court of Chancery, in pursuance of this Act, for the purchase of any lands, grounds, houses, tenements, or hereditaments, or of any estate right or interest in the land, ground, houses, tenements, or hereditaments to be purchased in pursuance thereof, or to any stocks funds or annuities to be purchased with any such money, or to the dividends or interest of any such stocks funds or annuities, the person or persons who shall have been in possession of any such land, ground, houses, tenements, or hereditaments at the time of such purchase, and all persons claiming under such person or persons, or under the possession of such person or persons, shall be deemed and taken to have been lawfully entitled to such land, ground, houses, tenements, or hereditaments, according to such possession, until the contrary shall be shown to the satisfaction of the said Court of Chancery; and the dividends or interest of the stocks funds or annuities to be purchased with such money, and also the capital of such stocks funds or annuities shall be paid applied and disposed of accordingly, unless it shall be made appear to the said court that such possession was a wrongful possession, and that some other person or persons was or were lawfully entitled to such land, ground, houses, tenements, or hereditaments, or to some estate or interest therein.

XXXIV. And be it further enacted, That where by reason of any disability or incapacity of any person or persons, or corporation entitled to any land, ground, houses, tenements, or hereditaments to be purchased under the authority of this Act, the purchase money for the same shall be required to be paid into the said Court of Chancery, and to be applied in the purchase of other land, ground, houses, tenements, or hereditaments, to be settled to the like uses in pursuance thereof respectively, it shall be lawful for the said Court of Chancery to order the expenses of all purchases from time to time to be made in pursuance of this Act, or so much of such expenses as the said court shall deem reasonable, together with the necessary costs and charges of obtaining such order, to be paid by the said commissioners, who shall from time to time pay such sums of money for such purposes as the said court shall direct.

XXXV. And be it further enacted, That all and every person or persons who shall have any mortgage or mortgages upon any land, ground, houses, tenements, or hereditaments to be taken or used for the purposes of this Act, not being in possession thereof by virtue of such mortgage or mortgages, shall, on the tender of the principal money and interest due thereon, together with the amount of six calendar months' interest on the said principal money, by the said commissioners, or by such person or persons as they shall appoint, immediately convey assign and transfer such mortgage or mortgages to the said commissioners, or to such person or persons as they shall appoint; or in case such mortgagee or mortgagees shall have notice in writing from the said commissioners, or from such person or persons as they shall appoint, that they will pay off and discharge the principal money and interest which shall be due on such mortgage or mortgages, at the end or expiration of six calendar months (to be computed from the day of giving such notice), then, at the end of such six calendar months, on payment of the principal and interest so due, such mortgagee or mortgagees shall convey assign and transfer his her or their interest in the premises to the said commissioners; and in case such mortgagee or mortgagees shall refuse to convey and assign as aforesaid upon such tender or payment, then all interest on every such mortgage shall from thenceforth cease and determine: Provided always, that in case the sum due upon any such mortgage or mortgages, with all interest due thereon, shall

amount to more than the real value of the premises, to be ascertained settled and adjusted by a jury as aforesaid, then the said commissioners shall not be liable to pay the mortgagee or mortgagees more than the real value of such premises so ascertained as aforesaid: Provided also, that in case any mortgagee shall neglect or refuse to convey or assign as aforesaid, then, upon payment of the principal money and interest due on any mortgage as aforesaid into the Bank of *Ireland*, at the end of six calendar months from the day of giving such notice as aforesaid, for the use of the mortgagee or mortgagees, the cashier or cashiers of the said bank shall give a receipt or receipts for the said money in like manner as hereinbefore directed in cases of other payments into the said bank; and thereupon all the estate, right, title, interest, use, trust, property, claim, and demand of such mortgagee or mortgagees, and of all and every person or persons in trust for him her or them, shall vest in the said commissioners, and they shall be deemed to be in the actual possession of the premises comprised in such mortgage or mortgages.

XXXVI. And be it further enacted, That in case any feme covert is or shall be seised in fee simple or in fee tail of any such lands tenements or hereditaments so to be purchased as aforesaid by the said commissioners, or of any interest in the same, or of any charge incumbrance or lien thereon, to her separate use, free from the controul or intermeddling of her husband, the purchase money to which such feme covert shall become or be entitled as aforesaid shall be paid to such person or persons as she shall in writing under her hand nominate to receive the same, in trust to be re-invested in lands tenements or hereditaments to be conveyed as aforesaid, or to be laid out upon landed or other security, in such manner as the Court of Chancery shall direct, and settled for such use estate and interest as the same feme covert had in the premises so purchased.

XXXVII. Provided nevertheless, and be it enacted, That where any such charge incumbrance or lien shall also extend over and be a charge incumbrance or lien on any lands tenements or hereditaments other than those which shall be so conveyed to or vested in the said commissioners, then and in such case neither this Act nor any conveyance to be made as aforesaid shall in any respect discharge affect or alter the force validity or effect of such charge incumbrance or lien, so far as relates to such other lands tenements or hereditaments; but that as to all such the same shall continue to be a good valid and subsisting charge incumbrance and lien for so much thereof as shall remain unpaid, in the same manner in all respects as if this Act or any thing done under the same had not existed, but not further or otherwise.

XXXVIII. And be it further enacted, That the conveyance of any estate or interest to the said commissioners, and their heirs and successors, by bargain and sale duly enrolled in the rolls office of his Majesty's High Court of Chancery in *Ireland*, within six calendar months after making thereof, shall as effectually and absolutely convey the estate of the person so conveying as any fine or recovery would or could do if levied or suffered in due form of law.

XXXIX. And be it further enacted, That all sums of money or other recompence consideration or satisfaction, to be paid and made pursuant to any such agreement or verdict as aforesaid, and all such costs charges and expences as the said commissioners or their heirs and successors, or any of them, shall be at or put to in the execution of the trusts and powers hereby vested in them, shall be paid by the treasurer of the county county of a city or county of a town, out of the sums so presented as aforesaid.

XL. And be it further enacted, That it shall and may be lawful to and for the said commissioners from time to time to impose any reasonable fine not exceeding twenty pounds on any sheriff or sheriffs, or their deputy or deputies, bailiffs or agents respectively, who shall make default in the premises, and on any person or persons who shall be summoned and returned on any jury or juries who shall not appear, and also on any witness or witnesses who shall not attend, or shall refuse to be sworn or to give evidence to the said commissioners, or to any jury so impannelled before

No. XXIII.

7 Geo. IV.

c. 74.

Femes Covert
seised in Fee
Simple, &c.

Liens shall remain on Premises not conveyed.

Conveyance enrolled within Six Months to be effectual.

Consideration Money and Costs to be paid by Treasurer of County, out of Presentments.

Fine on Sheriff, &c., making Default.

No. XXIII.

7 Geo. IV.

c. 74.

Commissioners
of Works to
appoint a
Clerk.

Sums to be paid
in advance to
such Commis-
sioner.

Commissioners
to account be-
fore the Grand
Jury.

them, and on any person or persons summoned and returned on any such jury or juries who shall refuse to be sworn on any such jury or juries, or to give his her or their verdict, or shall in any other manner wilfully avoid or neglect his or their duty in or touching the premises; and from time to time to levy such fine or fines by order of the said commissioners, as the case may require, by distress and sale of the offender's goods, together with the reasonable charges of every such distress and sale, returning the overplus (if any) to the owner; and all such fines which shall be so recovered and received shall be applied to the purposes of such presentment.

XLII. And be it further enacted, That it shall and may be lawful to and for the said commissioners, at any time or times hereafter, under their hands and seals, to nominate and appoint such person to be and act as their clerk, as they shall think fit, for such matters as may be necessary to be done in the execution of the powers and authorities hereby given to the said commissioners, provided that no such clerk shall at any time be a commissioner under this Act; and that such clerk shall from time to time be removable and may be removed at the will and pleasure of the said commissioners, by instrument in writing under hand and seal; and that the said commissioners shall and may make such allowance or salary unto such clerk, for his care and pains in the execution of his said office or offices out of the money so presented, as the said commissioners shall think reasonable, not exceeding in any one year twenty pounds: Provided always, that as soon as the building or other work for which such commissioners shall have been so appointed as aforesaid shall be completed, and the accounts of the same finally passed, then and in every such case the office appointments and powers of the said commissioners, and of such clerks, shall cease and determine.

XLII. And be it further enacted, That where a sum not exceeding one hundred pounds shall be duly presented as aforesaid, for any addition to any such gaol, bridewell, house of correction, or other prison, or for making any alterations or repairs therein, it shall be lawful for the grand jury, at the same or any subsequent assizes or presenting term, to present that such part of the sum so presented as they may judge proper shall be paid in advance to the commissioners so appointed as aforesaid to conduct the execution of such works, or any one or more of them, upon his or their entering into a recognizance before the court in double the sum so to be advanced, conditioned that he or they shall apply the money so to be advanced for the purposes for which the same was so presented, and none other; and that he or they shall, at the next and every succeeding assizes or presenting term respectively, justly and fairly account for the same, according to law, until the whole of such money shall be finally accounted for, and that he or they, or his or their heirs executors or administrators, shall at any time pay to the treasurer for the time being of the said county of a city or county of a town, any balance or part of such money which shall not by such accountant appear to have been applied for the purposes aforesaid.

XLIII. And be it further enacted, That such commissioners shall, at every ensuing assizes or presenting term as aforesaid, lay before the grand jury and the court a just and fair account in writing of all and every expenditures of such money so to be advanced to them, and the particular purposes for which the same was expended, and the quantities and price of each material bought therewith; and such account shall be verified by affidavit in writing at the foot thereof, to be made in open court by one of the said commissioners; and shall state that the whole of the money was so expended for the sole purpose of executing the work so presented, pursuant to the presentment thereof; and when any such work shall be finished, and the accounts of the said commissioners approved of and passed by the grand jury and the court, it shall be ordered that all such recognizances so entered into shall be vacated on the last day of the next assizes or term, and they shall be vacated accordingly, unless upon some sufficient complaint laid before the court or the grand jury sufficient cause shall appear to induce the court to make an order to the contrary, and provided, if there be any balance unexpended, a certifi-

Commissioners may raise Gravel for the Purposes of this Act.

Prisoners to be removed to any new Gaols when built.

Prisoners to be removed during Repairs, &c., of Prisons.

Gaols built, or Additions thereto, shall be deemed Part of the County.

cate of the treasurer of the county county of a city or county of a town, shall be laid before the grand jury and the court, setting forth that he had received the said balance, and applied it to the credit of the county county of a city or county of a town.

XLIV. And be it further enacted, That all commissioners or other persons duly authorized or employed in or for the building, altering, enlarging, or repairing any gaol, bridewell, house of correction, or other prison in *Ireland*, or any of the appurtenances thereof, shall for such purpose have all and singular the same powers of raising and carrying away sand, gravel, stones, earth, or other materials, as are or shall from time to time be given by any laws or law in force in *Ireland* to the overseers of the public roads, and subject to the same regulations and restrictions.

XLV. And be it further enacted, That whenever any new gaol or other prison so to be built and erected as aforesaid shall be made fit for the reception and safe keeping of such prisoners as may be lawfully confined and imprisoned therein, and the said commissioners, or any three or more of them, shall give notice thereof in writing to the sheriff or sheriffs of such county county of a city or county of a town, or to either of such sheriffs, where there shall be two, it shall and may be lawful for the said sheriff or sheriffs to remove to such new gaol all such prisoners as shall be then in custody, who may lawfully be confined and imprisoned therein.

XLVI. And be it further enacted, That whenever at any assizes or term it shall be ordered by the Court of King's Bench, or judges or judge of assize, that the prisoners confined in any gaol, bridewell, house of correction, or other prison, or any of them, shall be removed for the purpose of repairing such gaol, bridewell, house of correction, or other prison, or of using the materials thereof in building a new gaol, bridewell, house of correction, or other prison, pursuant to any presentment for such purpose, or whenever on any sudden accident an order shall be made by three justices of the peace as aforesaid, for the repairs of such gaol, bridewell, house of correction, or other prison, and such order shall direct the removal of the prisoners therein, or any of them, for the purpose of making such repairs, then and in any of the said cases it shall and may be lawful for the sheriff or sheriffs of such county, county of a city or county of a town, to remove such prisoners to any gaol, bridewell, house of correction, or other prison, belonging to such county county of a city or county of a town, or to such other place or places as with the consent of the said sheriff shall be specified in any such order, and to confine them during the time such new gaol, bridewell, house of correction, or other prison shall be building, or old gaol, bridewell, house of correction, or other prison repairing; and when any such gaol, bridewell, house of correction, or other prison so under repairs shall be made fit for the reception and safe keeping of such prisoners, and the same shall be certified by the commissioners thereof, if any, or any two of them, or by any three justices of the peace of such county, then it shall be lawful for the said sheriff to remove thither all such prisoners as shall be then in his custody, and may lawfully be confined and imprisoned therein; and the expence of such removal or removals in any of the cases aforesaid, and any expence the said sheriff shall be put to, for or by means of the safe custody of the said prisoners, or any of them, in such gaol, bridewell, house of correction, or other prison to which they may have been removed, for any of the temporary purposes aforesaid, shall be allowed and paid by such county county of a city or county of a town, by any presentment to be made for that purpose at the ensuing assizes or presenting term; and any such removal or removals shall not be deemed or taken to be an escape.

XLVII. And be it further enacted, That when any new gaol, bridewell, house of correction, or other prison so to be built and erected, for any county county of a city or county of a town, or any old gaol, bridewell, house of correction, or other prison thereof, which shall require any addition thereto, shall be situate within the limits of any other county county of a city or county of a town, then and in every such case such new gaol, bridewell, house of correction, or other prison, and all additions

No. XXIII.

7 Geo. IV.

c. 74.

which shall be so made to such old gaol, bridewell, house of correction, or other prison, together with the ground whereon the same shall be built respectively, and all courts, yards, outoffices, buildings, and other appurtenances thereto belonging, shall, from the time of receiving prisoners into such new gaol, bridewell, house of correction, or other prison, or of completing such addition, be deemed taken and adjudged to be part of the county county of a city or county of a town, to which such gaol, bridewell, house of correction, or other prison shall belong, to all intents and purposes; and whensoever any gaol, bridewell, house of correction, or other prison of any county shall cease to be a prison of such county county of a city or county of a town, and shall be situate within the limits of any other county county of a city or county of a town, then and in every such case such gaol, bridewell, house of correction, or other prison, with all its appurtenances, shall thenceforth be deemed and taken to be part of the county county of a city or county of a town, wherein the same shall be so situate, any charter law or usage to the contrary thereof in anywise notwithstanding.

When new Gaols are built, old ones to be sold or converted;

XLVIII. And be it further enacted, That after any new gaol, bridewell, house of correction, or other prison, shall be erected and made fit for the reception of prisoners, it shall be lawful for the grand jury of the county county of a city or county of a town, at any assizes or presenting term, with the consent of the court, to present the old gaol, bridewell, house of correction, or other prison, or the ground or soil thereof, to be sold by public cant for such estate or interest as such county county of a city or county of a town, or any person or persons in trust for them, shall have therein, and the money arising from such sale shall be paid to the county treasurer for the use of the county county of a city or county of a town; or it shall be lawful for the said grand jury to present the said old gaol, bridewell, house of correction, or other prison, to be a bridewell, workhouse, house of industry, or house of correction, or other prison of any other description for the said county; or if such grand jury shall see fit so to do, it shall be lawful for such grand jury to give grant or convey gratuitously the whole of the ground or soil of any such old gaol bridewell or house of correction, or any part or parts of the same respectively, for the purpose of widening opening or otherwise improving any street way or passage, or streets ways or passages, in any county or city, borough or town, or in any county of a city or county of a town, within or adjoining which such old gaol bridewell or house of correction shall be situate; and if the whole of such ground or soil shall not be necessary for such improvement or improvements, then to sell or dispose of the residue thereof in manner herein-before provided.

or the Site may be applied to the Improvement of the Place.

Where Land has been given for the Site of any old Gaol, without any regular Conveyance, or Conveyances have been lost, &c.

XLIX. And be it further enacted, That whenever it shall appear that land has been given for the site of any old gaol, bridewell, house of correction, or other prison, without regular conveyance of title, or that the deeds of conveyance have been lost or destroyed, or that by the decease of trustees, or defect of heirs of the surviving trustee, or from any other cause, no person exists or can be found competent or qualified to convey the legal title of and in such old gaol, bridewell, house of correction, or other prison, to any purchaser, then and in such case, if the gaol or premises to be sold as aforesaid have been used as a gaol for the term of seven years or more, the commissioners appointed according to this Act for the purchase of a new site for a gaol, bridewell, house of correction, or other prison, or any other commissioners, not being less than six or more than twelve in number, whom the grand jury shall at any assizes or presenting term appoint for such purpose, shall be deemed and are hereby constituted legal owners of the old gaol, bridewell, house of correction, or other prison, in fee or fee tail, or for such term or time as the same was originally granted for, and if no such grant is known to have existed, then in fee simple, upon trust however to contract with a purchaser and sell the same, and execute all deeds and conveyances necessary for that purpose, and give a sufficient receipt for the purchase money: Provided always, that such old gaol, bridewell, house of correction, or other prison shall be sold to the best bidder, after having been advertised for that

purpose in the *Dublin Gazette*, and in some other newspaper printed within or near to such county county of a city or county of a town, for three months at the least before the terms of sale shall be accepted; which advertisement the treasurer of the county county of a city or county of a town, shall cause to be inserted and paid for, and for which he shall be repaid with lawful interest, together with all costs and charges, out of the first monies produced by such sale; and after deducting such money, and also the expence attending the sale, the money produced thereby shall be paid to the treasurer of the county, to be placed to the credit thereof.

L. And be it further enacted, That it shall and may be lawful for the lord lieutenant or other chief governor or governors of *Ireland*, upon application from the grand juries of any two or more counties counties of cities or counties of towns in *Ireland*, to order and direct that such counties counties of cities and counties of towns, may unite in the building or providing of one common gaol, bridewell, house of correction, or other prison, for such two or more counties counties of cities or counties of towns; and in any such case the gaols, bridewells, houses of correction, or other prisons of such two or more counties counties of cities or counties of towns, shall be deemed to be united and joined.

LI. And be it further enacted, That when the gaols, bridewells, houses of correction, or other prisons of two or more counties counties of cities or counties of towns, shall have been united and joined, it shall and may be lawful to and for the grand juries of the said counties counties of cities or counties of towns, or either of them, to present such sums as they shall think fit for the building a new gaol or gaols, bridewells, houses of correction, or other prisons, for the said counties counties of cities or counties of towns respectively, or for either of them, either together or separate, as the said grand juries respectively shall think proper, in the same manner in all respects, and the respective parts thereof shall be subject to all the same rules conditions and consequences as if the same were separate.

LII. And be it further enacted, That whenever an order shall be issued in manner aforesaid to the board of works, for the building or enlarging of the marshalsea of the four courts, or any penitentiary house or houses as aforesaid, it shall and may be lawful to and for the lord lieutenant or other chief governor or governors of *Ireland* for the time being, by warrant under hand and seal, to appoint any number of persons, not less than six nor more than twelve, to be commissioners for the purpose of directing and superintending such work; and to fill up from time to time, in like manner, all vacancies that shall occur amongst the said commissioners, by death resignation or otherwise; and that the said commissioners so appointed shall have all and every the like powers, in all respects as to making purchases, impannelling juries, pronouncing judgments, and all and every other the matters and things aforesaid, and all things done by them, or any other person or persons, in pursuance of or under and in obedience to their said powers, shall be of the like force validity and effect, in all respects whatsoever, as concerning the commissioners appointed by the said grand juries, or any proceedings by or before them, is hereinbefore enacted.

LIII. And be it further enacted, That it shall and may be lawful to and for the Court of King's Bench in term time, and to and for any judge of the said court in vacation, either on the finishing of a new marshalsea of the four courts, or on occasion of or for the purpose of repairing such prison, or on occasion of any infectious disorder or sudden accident, or on or for any other reason purpose, or occasion which such court or judge shall deem to be sufficient, to order that the prisoners in such marshalsea, or any one or more of them, shall be removed to any other prison specified in such order, there to remain until discharged by due course of law, or until removed therefrom by another order of the like nature, or remanded to the said marshalsea; and any such removal shall not be deemed to be an escape.

No. XXIII.

7 Gen. IV.

c. 74.

Two or more Counties may unite in building any Gaol, on Application to Lord Lieutenant.

Gaols of Two or more Counties united may be presented for, either together or separately.

Lord Lieutenant to appoint Commissioners to superintend Works of the Four Courts, Marshalsea, and Penitentiary Houses.

Judges of King's Bench may order Removal of Prisoners in Marshalsea Courts.

No. XXIII.

7 Geo. IV.
c. 74.

Lord Lieutenant to appoint Two Inspectors-General of Prisons. Counties to be apportioned into Two Circuits, the Prisons of which shall be visited yearly by an Inspector-General.

Reports of Inspectors-General shall be laid before the Grand Juries at the ensuing Assizes.

Allowance for the Report, 20*l*.

Gaolers shall transmit Returns of the State of the Gaols yearly, in the Form in Schedule (E.)

Salary to Inspectors.

LIV. And be it further enacted, That it shall and may be lawful to and for the lord lieutenant or other chief governor or governors of *Ireland* for the time being, to nominate and appoint two fit and proper persons to be inspectors-general of prisons in *Ireland*, removable at the will and pleasure of the lord lieutenant or other chief governor or governors of *Ireland* for the time being; and such two persons shall perform all the duties prescribed for the inspectors-general of prisons, as directed by this Act.

LV. And be it further enacted, That it shall and may be lawful for the lord lieutenant or other chief governor or governors of *Ireland*, to apportion the several counties of cities and counties of towns in *Ireland*, into two circuits, for the purposes of this Act; and each of the said inspectors-general shall, once at least in every year, go round one of the said circuits and visit and inspect every gaol, bridewell, house of correction, penitentiary, or other prison, and every madhouse and place where lunatics or idiots are confined, whether the same be a public establishment or kept for profit by any private individual, in or within such circuit, and shall report upon the state thereof to the lord lieutenant or other chief governor or governors of *Ireland* within such one of the said circuits respectively, and shall go round the said circuits alternately in each succeeding year; so that every gaol, bridewell, house of correction, penitentiary, madhouse, and other prison and place as aforesaid, shall be visited and reported upon by each of the said inspectors-general once in every two years at the least; which report shall be transmitted to the chief secretary of the lord lieutenant in *Dublin* prior to the first day of *February* in each year, and shall be laid before both Houses of Parliament, and which reports shall contain a general statement of the progress of prison discipline in each district, as well as a special report upon the state of each gaol, with a list of all prisons of every class.

LVI. And be it further enacted, That after such visits respectively each of the said inspectors-general shall deliver to the secretary to the grand jury of each county county of a city or county of a town, a copy of his report as to the several prisons therein respectively, in order that the same may by them be laid before the grand juries of the counties counties of cities and counties of towns, to which such reports shall relate, at the next ensuing assizes or presenting term; and every such report shall contain an account of each and every gaol, bridewell, house of correction, or other prison, and of every madhouse and place where idiots or lunatics are confined, within the said counties counties of cities and counties of towns respectively; and it shall and may be lawful to and for the collectors of Excise of the district in which the places for holding the assizes of such counties counties of cities or counties of towns as aforesaid, may be situated, to pay, and the said collector of Excise is hereby required to pay to the inspector-general for the year, upon his making such report, a sum of twenty pounds, which sum shall be repaid to the said collector of Excise by presentment at the next ensuing assizes, and the grand jury are hereby required to present the same accordingly.

LVII. And be it further enacted, That on or within ten days after the first day of *January* in each and every year, the gaoler or keeper of every gaol, prison, bridewell, or house of correction, or other county prison in *Ireland*, shall make up a return of the state of such gaol, bridewell, house of correction, or other county prison under his charge, for the year preceding such first day of *January*, in the form contained in the schedule marked (E.) to this Act annexed, and shall transmit the same, or cause the same to be transmitted, to one of the inspectors-general, on or before the twentieth day of the said month of *January*, to be by such inspector-general certified and transmitted, together with his annual report, and such observations as he may judge necessary, to the office of the chief secretary of the lord lieutenant in *Dublin*.

LVIII. And be it further enacted, That each of the said inspectors-general shall receive such salary as the lord lieutenant or other chief governor or governors of *Ireland* shall appoint, not exceeding to each

the sum of nine hundred pounds in the year, which salary shall be payable in quarterly payments out of the consolidated fund of the United Kingdom.

LIX. And be it further enacted, That it shall and may be lawful for the said inspectors-general, or either of them, from time to time, whenever and so often as they shall see fit, to visit any gaol, bridewell, madhouse, marshalsea, or other prison in *Ireland*, and to examine concerning the due performance of the rules and regulations prescribed and required to be observed therein respectively, and also concerning all matters connected with the expenditure discipline or regularity thereof respectively, and to examine on oath all persons concerned therein, or holding any office or emolument therein, and also all other persons whom they shall think proper so to examine touching any matters concerning any such gaol bridewell or other prison; and it shall and may be lawful for either of the said inspectors-general, and they are hereby severally empowered and required to report thereupon to the lord lieutenant or other chief governor or governors of *Ireland*, or to the Court of King's Bench, or judges of assize, whenever they shall see occasion so to do.

LX. And be it further enacted, That if any inspector-general of prisons in *Ireland* shall, in any report or return required to be made by him, knowingly state any thing false, he shall be thenceforth incapable to hold the said office, and shall lose and forfeit the same.

LXI. And be it further enacted, That the said inspectors-general of prisons shall have power, and they are hereby required to visit and inspect, as often as they shall think fit, all madhouses and places where idiots or lunatics are confined, whether the same be any public establishment or kept for profit by any private individual, as well as all gaols and prisons throughout *Ireland*; and if any person or persons shall hinder molest or prevent any such inspector-general from visiting and inspecting any of the said places of confinement, such person or persons being duly convicted thereof before any two magistrates or justices of the peace in the county county of a city or county of a town where such hinderance shall have been made, shall for every such offence be fined in any sum not exceeding twenty pounds, at the discretion of such magistrates, and so *toties quoties* for every new hinderance after such conviction; and upon non-payment of the same, such person so convicted shall, by the warrant of such magistrates, be imprisoned in the common gaol of the county county of a city or county of a town, for six calendar months, unless such fine be sooner paid.

LXII. And be it further enacted, That in every gaol, house of correction, marshalsea, bridewell, sheriff's prison, and other prison throughout *Ireland*, a book shall be kept, and constantly remain therein, in order that any member of the board of superintendence appointed under this Act, and also the local inspector thereof, or either of the said inspectors-general, shall and may from time to time make and enter therein such observations as they shall respectively think fit; and every inspector, chaplain, surgeon, physician, apothecary, or other officer, attending on or required to attend on such prison, shall in his turn insert in such book, in his own handwriting, his name, and the date of such visit and duty performed; and every keeper of every such prison shall be responsible for the safe custody of such book, and shall at all times, when required so to do, produce the same for inspection to the grand jury or board of superintendence, or any member thereof respectively, without fee or reward.

LXIII. And be it further enacted, That no person or persons, body or bodies corporate or politic, shall by themselves, or any other person in trust for them, give take or receive, or offer to give take or receive any fee money or gratuity, or other valuable or beneficial consideration whatsoever, or any promise thereof, for or in respect of the appointment nomination or recommendation of any person or persons whatsoever, to be keeper of any prison in *Ireland*, or to hold any office under such keeper, or knowingly appoint, or cause to be appointed, any person or persons to such office, for or in respect of any fee money gratuity or other valuable consideration whatever, given or promised to any person or persons what-

No. XXIII.

7 Geo. IV.

c. 74.

Inspector-General to inquire into the Discipline of Prisons, and report to Lord Lieutenant, &c.

Inspector-General making false Returns to lose Office.

Penalty on obstructing Inspectors in visiting Madhouses, &c.

Book to be kept in each Prison in which any of the Board of Superintendence and Inspector, &c., shall enter Observations.

Books to be produced for inspection.

Penalty on taking any Fee for Appointment of Gaolers, &c., 500l.

No. XXIII.

7 Geo. IV.

c. 74.

Grand Juries to
appoint or alter
the Salaries to
Gaolers.

Local Inspectors
to be appointed
by Grand
Juries.

Grand Juries to
present a reason-
able Sum as
Salary for such
Inspectors.

Clerk of the
Crown to make
Return of Pri-
soners to the
Inspectors.

soever, for or in respect of such appointment, or to the obtaining of such office; and each and every person so offending shall forfeit the sum or penalty of five hundred pounds, together with double the sum so given as aforesaid; one moiety of such forfeiture to be paid to the King, and the other moiety to the informer who shall by bill plaint or information, in any of his Majesty's superior Courts of Record in *Dublin*, first sue for the same.

LXIV. And be it further enacted, That the several grand juries at the presenting terms in the county of *Dublin* and county of the city of *Dublin*, and at the assizes in all other counties counties of cities and counties of towns in *Ireland*, are hereby empowered and authorized to appoint such salaries and allowances to the several keepers of gaols in their respective counties counties of cities and counties of towns, and to their turnkeys or other assistants, as they shall think proper, and to alter the same from time to time as they shall see occasion, and to direct such salaries and allowances to be paid by the treasurer of such counties counties of cities and counties of towns respectively, under the direction of the board of superintendence appointed under this Act; all such salaries and allowances to be raised by presentment on the said counties counties of cities and counties of towns respectively: Provided always, that no keeper of a prison, or his turnkeys or assistants, shall be entitled to receive such salary or allowance unless he shall prove to the satisfaction of the grand jury that he hath complied with all and every of the rules and regulations which shall from time to time be provided by or under this or any other Act or Acts of Parliament, or by any lawful authority whatsoever, for the regulation of such prison, or for the conduct of the keepers thereof.

LXV. And be it further enacted, That it shall and may be lawful for each and every grand jury of every county county of a city and county of a town in *Ireland*, with the consent and approbation of the court or judge at each assizes and presenting term, from time to time to appoint a local inspector for such county county of a city or county of a town respectively, (such inspector to be removable by the grand jury of such county county of a city or county of a town for the time being, with the approbation of the next going judge of assize,) to regulate, under the direction of the board of superintendence appointed under this Act, and in the city of *Dublin* under the direction of the grand jury, the procuring and providing of food and necessaries for the prisoners in the gaol; and every such inspector shall be required to observe the several prison regulations hereinafter contained, as likewise all other prison regulations appointed by any competent authority under this Act, affecting such county county of a city or county of a town, or any one or more prison or prisons therein, and to see the same carried into effect.

LXVI. And be it further enacted, That it shall and may be lawful for all grand juries in *Ireland*, at any assizes or presenting term respectively after such appointment, to present a reasonable sum to be paid to every such local inspector appointed as aforesaid, as a recompence for the care and attendance necessary in the execution of the several duties of such office respectively, which local inspector shall reside within a reasonable distance of the county gaol of his county county of a city or county of a town.

LXVII. And be it further enacted, That it shall and may be lawful for the clerk of the crown, and he is hereby required, at each assizes and general gaol delivery in every county county of a city and county of a town in *Ireland*, and at every special commission of oyer and terminer and gaol delivery therein, and at every term or session of the commission of oyer and terminer and gaol delivery for the county of *Dublin* or for the county of the city of *Dublin*, and the clerk of the peace is also hereby required at quarter sessions to furnish the inspector of prisons for the time being of every such county county of a city and county of a town with a complete schedule of the several prisoners brought to trial at such assizes and general gaol delivery, and at such special commission, and at each and every term or session of the commission of the county of *Dublin*, or the county of the city of *Dublin* respectively, and at each and every quarter

session, specifying the particular crime of which each prisoner was accused, and stating the sentence of the judge on each trial, and whether the said several sentences have been executed respectively, or whether the whole or any and what part or parts of them have been remitted; and the several inspectors of prisons are hereby required, according to a form to be furnished to them by the inspectors-general of prisons annually, to make a general statement from such returns for the whole year, and to transmit the same to the said inspector-general of prisons, within ten days after the first day of *January* in each year, transmitting with such annual statement the original returns from which it has been made.

No. XXIII.
7 Geo. IV.
c. 74.

Annual Return
to be made by
Inspectors.

Appointment of
Chaplains to
County Gaols.

XLVIII. And be it further enacted, That it shall and may be lawful for each and every grand jury in *Ireland*, and they are hereby required at any assizes or presenting term, to appoint a proper and discreet person, being duly ordained in holy orders and of the established church, to be chaplain of the several gaols of and in their respective counties counties of cities and counties of towns; and it shall and may be lawful for every such grand jury, if they shall be so required by the court, also to appoint a proper and discreet person, being a Protestant dissenting minister to be Protestant dissenting chaplain thereof; and also if they shall be so required by the court, to appoint a priest or clergyman of the Roman Catholic church, to be Roman Catholic chaplain thereof: Provided always, that every person so appointed shall be approved of by the court, and that where there is only one gaol of such county county of a city or county of a town, in the appointment of such chaplain preference shall be given to some clergyman of the established church officiating within the parish in which the gaol shall be situated, if duly qualified; and in like manner to some Protestant dissenting minister, and some clergyman of the Roman Catholic church, if duly qualified, acting as such within the said parish.

Duty of Chap-
lains.

LXIX. And be it further enacted, That every such chaplain shall read prayers in the said gaol for which he shall be appointed on every *Sunday* in the year; to wit, the Protestant chaplain of the established church to such of the prisoners as shall be Protestants of the established church, and the Protestant dissenting minister to such of the prisoners who shall be Protestant dissenters, and the Roman Catholic chaplain to such of the prisoners as shall be Roman Catholics; and that every such chaplain shall likewise visit each of the said prisons twice at least in every week, exclusive of his attendance on *Sunday*; that on such visits he shall go into every room and cell in the prison wherein any prisoner so within his charge shall be confined, and converse with and exhort such of the said prisoners respectively as are willing to listen to his admonitions; and that each of the said chaplains shall attend every malefactor in their respective prisons who shall be within his charge as aforesaid, or who may desire his assistance, previous to and down to the time of his execution, in order to administer to such prisoner or prisoners the functions of his holy office; and that every such chaplain shall by alternate weeks, on the days appointed for the delivery of provisions or serving the same to the prisoners, inspect in his turn the bread or other provisions provided for any prisoner of whatsoever religion, and take care that the same are of good and wholesome quality, and of sufficient weight; and every such chaplain shall keep a journal in which he shall enter the time of his attendance on the performance of his duty, with any observations which may occur to him in the execution thereof, to be produced when required to the board of superintendence.

LXX. And be it further enacted, That it shall and may be lawful for the grand jury, at the spring assizes and *Easter* term in every year after such appointment, to present a reasonable sum, not exceeding the sum of one hundred pounds and not being less than fifty pounds in the county and county of the city of *Dublin*, and not exceeding fifty pounds nor being less than thirty pounds within any other county or county of a city or county of a town in *Ireland*, for every such chaplain, as a recompence for his services aforesaid; provided it shall fully appear to said grand juries respectively, and to the court or judge, that such chaplains duly

Salaries to
Chaplains.

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7 Geo. IV.
c. 74.

Where there are more than Two Gaols in any County, &c., more than One Chaplain may be appointed.

Appointment of Surgeon.

Journal to be kept by him.

In Dublin, a Physician may be appointed.

Appointing Apothecaries.

How Medicines and other Articles for the Sick shall be furnished and paid for.

and regularly executed the several duties of their said offices respectively; and that the sums presented for all the chaplains aforesaid in one prison or district shall be of the same amount, unless the share, or any part of the share of either, shall at any time be withheld by reason of any misconduct or neglect of duty.

LXXI. Provided always, and be it enacted, That in any case where it shall happen that there shall be more than two gaols of and within any county county of a city or county of a town it shall be lawful for the grand jury of such county county of a city or county of a town, on the direction of the court, to appoint more than one chaplain for the same: Provided always, that the whole sum to be given as a salary or salaries to any number of chaplains shall not exceed the amount of salary authorized to be paid to any one chaplain as aforesaid; and that a preference shall be given in the appointment of such chaplains to the clergy ordinarily officiating in the several parishes within which such gaols may be respectively situated, if properly qualified.

LXXII. And be it further enacted, That the grand jury of every county county of a city or county of a town, shall and they are hereby required from time to time to appoint a surgeon, being a member of one of the Royal Colleges of Surgeons, or a physician, being a member or licentiate of one of the Royal Colleges of Physicians, to the prisons within their jurisdiction; and every such surgeon or physician, as the case may be, shall and is hereby required to visit every prison to which he shall be so appointed, twice at least in every week, and oftener if necessary, and to see every sick person confined therein, whether criminal or debtor, and to examine the condition of the hospital, and the state of health of the prisoners under his care; and he shall further keep a journal, in which he shall enter the date of every attendance on the performance of his duty, with any observations that may occur to him in the execution thereof, and shall sign the same with his name; and such journal shall be kept in the prison, and shall regularly be laid before the board of superintendence at their meetings, and before the grand jury at every assize and presenting term; and it shall and may be lawful for the grand jury, at every assizes or presenting term after such appointment, to present a salary to such surgeon or physician; and such surgeon or physician shall be required at every visit to prescribe for all prisoners who stand in need thereof, and shall order such sustenance and other articles as may be necessary; which sustenance and other articles shall be provided by the local inspector, or in such other manner as the grand jury or board of superintendence appointed under this Act shall direct and appoint: Provided nevertheless, that nothing herein contained shall prevent the continuance in office of any medical attendant appointed before the passing of this Act, or of any physician appointed jointly with a surgeon before the passing of this Act: Provided always, that it shall and may be lawful for the grand jury of the county of the city of *Dublin*, in which more extensive medical attendance has been found to be necessary, to appoint, with the approbation of the court, a regularly-bred physician in addition to a surgeon; and such physician shall, together with such surgeon, discharge the duties herein required of any surgeon or physician to be appointed under this Act; and it shall and may be lawful for the grand jury aforesaid, at every presenting term after such appointment, to present a reasonable sum to be paid as a salary to such physician.

LXXIII. And be it further enacted, That it shall and may be lawful for each and every grand jury respectively as aforesaid, and they are hereby required, to appoint an apothecary, and it shall be the duty of every such apothecary to execute every order of such surgeon or physician.

LXXIV. And be it further enacted, That each and every of the said apothecaries shall, if required, provide all medicines and other articles necessary for the sick, and shall keep an account, stating fully and particularly the different articles supplied; and it shall and may be lawful for the grand jury at each assizes and presenting term, to present a reasonable sum to be paid to such apothecary, for and on account of the

medicines so furnished, at a price not exceeding the rates authorized by the governor and directors of the Apothecaries' Hall in *Dublin*: Provided always, that the grand jury or board of superintendence shall be empowered, in cases in which it shall seem expedient so to do, to procure medicines and drugs from Apothecaries' Hall in *Dublin*; and it shall and may be lawful for the grand jury to present a reasonable salary to such apothecary, as a compensation for his attendance and trouble in providing or preparing medicines for the sick: Provided also, that the salaries presented for such surgeon or physician and apothecary shall not exceed the sum to which the total amount of salaries to the medical officers of the gaol are or may be limited by law; and provided that no apothecary who shall be appointed at any time after the passing of this Act, who shall provide such medicines as aforesaid on his own account, shall in any case act as surgeon or physician to any gaol.

LXXXV. Provided always, and be it enacted, That if any of the said offices of inspector, chaplain, surgeon, physician, or apothecary, on the appointment of the grand jury, shall become vacant between two assizes or presenting terms respectively, then and in every such case it shall and may be lawful for the board of superintendence appointed under this Act (or for the sheriff of the county of the city of *Dublin* there) to appoint a new officer to fill such vacancy respectively; and such new officer so appointed shall hold and exercise the said office until a new appointment shall be made thereto as aforesaid, as fully and effectually in all respects, and with all the same rights powers and advantages as if he had been duly appointed thereto as aforesaid; and that no officer shall hold any two offices in any gaol or other prison, save and except that the same person may be appointed to the office of local inspector and chaplain: And provided, that nothing in this Act shall be construed to prevent any officer holding two offices at the time of the passing of this Act from continuing to hold the same.

LXXXVI. And be it further enacted, That it shall and may be lawful for the several grand juries, and they are hereby required, at every assizes and presenting term, to present such sum and sums of money as may be requisite for the purpose of providing food, fuel, prison dresses, iron bedsteads, bed tickens, straw, blankets, and bed-clothes, for all prisoners who shall be confined in any gaol, bridewell, house of correction, or other county prison of their respective counties counties of cities and counties of towns, and shall stand in need of such assistance, as likewise suitable furniture for the day rooms, and other necessary petty expences of the same, and utensils for cleaning the gaol: And that the several sums before mentioned to be presented for the purposes of providing food, fuel, prison dresses, iron bedsteads, bed tickens and blankets, bed-clothes, and straw, for prisoners, furniture and utensils as aforesaid, shall be paid into the hands of any person or persons (not being a grand juror or member of the board of superintendence, nor being an inspector, chaplain, physician, surgeon, or apothecary, under this Act, nor being the keeper of any prison), who shall or may have contracted with any grand jury board of superintendence or any inspector or other person appointed by them, in any such gaol, bridewell, house of correction, or other prison, for the supply of such food fuel and other matters respectively, or who may have supplied the same.

LXXXVII. And be it further enacted, That the money required for the payment of any person or persons who shall supply or shall contract to supply any such food or other necessities, articles, matters, or things respectively, for the use of such poor prisoners, shall be raised and levied in every county county of a city or county of a town throughout *Ireland*, by presentment of the grand jury.

LXXXVIII. And be it further enacted, That the bedding to be allowed to poor prisoners shall consist of one ticken for straw and three single blankets to each bed; and that the prison dresses shall consist of a cap, a jacket, one shirt, waistcoat, trowsers, and shoes to men; and a suitable dress to female prisoners, with shoes.

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7 Geo. IV.

c. 74.

For supply of
Vacancies of
Local Inspectors,
Chaplain,
Surgeon, and
Apothecary.

Presentments
for Fuel, Prison
Dresses, Beds,
&c.

Monies presented for such
Purposes to be
paid to Contractors.

Expences of
poor Prisoners
shall be raised
by Presentment.

Bedding and
Prison Dresses.

No. XXIII.

7 Geo. IV.
c. 74.

Contractors,
&c., to account
on Oath.

Contracts for
Food, &c., shall
be made with
the Clerk of
the Peace.

Penalty on
Grand Jurors,
Inspectors, &c.,
being concerned
in Contracts,
500*l*.

Poor Prisoners
shall be supplied
with Food and
Necessaries at
the public Ex-
pence only.

The Court may
order Creditors
to pay any Sum
not exceeding
2*s*. 6*d*. per
Week to Per-
sons in Prison
for less than
10*l*.

On failure,
Debtor to be
discharged.

Inspectors-Ge-
neral shall pre-
pare Dietary
Table for poor
Prisoners, to be
approved by the
Justices of the
Peace;

LXXIX. And be it further enacted, That all and every sum and sums of money which shall be presented by any grand jury, in payment of any contract, shall be accounted for on oath, in open court, by the persons making such contract.

LXXX. And be it further enacted, That all contracts for supply of food or other necessaries for the use of the gaol, when approved of by the proper authority, shall be entered into by such contractors with the clerk of the peace in the several counties counties of cities and counties of towns respectively; and that it shall and may be lawful for any such clerk of the peace under the direction of the grand jury, to sue for a breach of any such contract.

LXXXI. And be it further enacted, That if any grand juror or any member of any such board of superintendence as aforesaid, or any inspector, chaplain, physician, surgeon, or apothecary, or any keeper of any gaol, bridewell, house of correction, or other prison, shall contract to provide or supply any such bread, meal, potatoes, or other food, or any straw, fuel, prison dresses, bedsteads, bed tickens, blankets, bed clothes, or other necessaries for prisoners under his inspection or charge, contrary to the provisions of this Act, or shall supply the same otherwise than in the performance of his duty under this Act; or shall directly or indirectly derive or receive any profit or emolument whatever from any bread, meal, potatoes, or other food, or any straw, fuel, prison dresses, bedsteads, bed tickens, blankets, bed clothes, or other necessaries provided for such prisoners, which shall be supplied for the purposes of this Act, every person so offending shall for every such offence forfeit the sum of five hundred pounds, to be recovered by any person who shall sue for the same, by any action, suit, bill, or plaint, in any of his Majesty's superior Courts of Record in *Dublin*, wherein no essoign protection or wager of law, shall be allowed, nor any more than one imparlance.

LXXXII. And be it further enacted, That any prisoner, of whatever description, in any prison whatsoever in *Ireland*, who shall not be of sufficient ability to procure food and other necessaries, shall be supplied, in manner herein mentioned respectively, with such food and necessaries at the public expence; and every such prisoner, as long as he shall be so supplied, shall be deemed and taken to be a poor prisoner within the meaning of this Act, and shall be subject as such to all rules and regulations herein-after provided in that behalf; and it shall not be lawful for any such prisoner who shall be so supplied at the public expence to accept or receive any food or liquor, other than such as shall be supplied under this Act; and if any such prisoner shall accept any food or liquor contrary to this Act, such prisoner shall no longer be supplied at the public expence, and shall thereupon cease to be deemed and taken to be a poor prisoner within the meaning of this Act.

LXXXIII. Provided always, and he it enacted, That in all cases where any person shall be confined or detained in any prison at the suit of any creditor or creditors, for any debt less than the sum of ten pounds, it shall be lawful for the court under process from which such debtor shall be detained, on the application of such debtor, in case such court shall think right under the circumstances of the case so to do, to order the creditor or creditors, at whose suit such debtor shall be confined or imprisoned, to pay to such debtor such sum or sums, not exceeding the rate of two shillings and sixpence by the week in the whole, at such times and in such manner as the said court shall direct; and that on failure of payment thereof as directed by such court, such debtor shall forthwith be discharged from custody at the suit of the creditor or creditors failing to pay the same.

LXXXIV. And be it further enacted, That either of the inspectors-general of prisons to be appointed under this Act shall make out a regular dietary table for each gaol, bridewell, house of correction, or other county prison in *Ireland*, setting forth the quantities and description of food for each and every day during the week, to be allowed per head to all poor persons therein; which dietary table, so prepared for each prison

respectively, shall be submitted to the judges of his Majesty's Court of King's Bench in *Dublin*, in order that such table may be approved, or may be altered or amended, as such judges shall think fit; and every such dietary table, when approved of by such judges, shall be adopted and strictly adhered to in such prisons, until a new dietary table shall be appointed; and a copy of every such dietary table shall be placed by the local inspector of each prison in some conspicuous part of the common hall in every such prison within his inspection; and according to such table, provisions shall be procured for and distributed to all poor persons in such prisons respectively.

LXXXV. And be it further enacted, That it shall and may be lawful for either of the inspectors-general of prisons to alter or vary such dietary table from time to time for the prisons in general, or any particular prison, subject to the approbation of the said judges of his Majesty's Court of King's Bench in *Dublin*, and thereupon such table when so altered and approved shall be forthwith copied out by the said local inspector, and set up in the place of any former dietary table, to be in every respect pursued and abided by until such table shall be again duly altered as aforesaid.

LXXXVI. And whereas it will be advantageous to prisoners, that a regulated system of accounts of provisions, and fixed proportions of fuel and other allowances, should be established; be it therefore enacted, That a book shall be kept in the gaol of every county or county of a town in *Ireland*, according to the form in the schedule marked (A.) to this Act annexed, or in some form to be approved of by the judges of his Majesty's Court of King's Bench in *Dublin*, and shall contain an accurate daily account of the number of persons confined within the gaol, together with an account of the several articles of food fuel or other allowances issued to each class within the prison during the day; and such book shall be compared with the pass books of each contractor respectively, prior to any payments made to any such contractor, and shall be closed prior to every assizes, in order that the accounts may be examined by the grand jury of such county or county of a city or town, in order to ascertain that the articles are issued in due proportions, as by law established; and such grand jury shall thereupon make presentment of a sufficient sum for the payment of the amount.

LXXXVII. And whereas it appears that in many gaols the poor prisoners are not supplied with prison dresses bedding and other necessaries, and that no limit is assigned to each gaol, in respect to the number of such articles to be supplied in such gaols respectively; be it therefore enacted, That it shall and may be lawful for either of the inspectors-general of prisons to be appointed under this Act, with the approbation of the judges of his Majesty's Court of King's Bench in *Dublin*, or any one or more of them, to regulate and determine the establishment at which such gaol bridewell or other prison shall be rated in respect to its complement of prisoners; and that it shall and may be lawful for any of the said inspectors-general of prisons, at his or their annual inspection of each prison, to ascertain the deficiencies of the said prison dresses, beds, bedding, and other articles, and to order a supply of the same, and that the said articles shall be preserved in the stores of the prison, to be issued to such prisoners as shall be entitled thereto; and it shall and may be lawful for the local inspector or any other officer of such prison, by order of the inspector-general, or of either of them, to present to the collector of Excise of the district in which such prison is situate an account of the expence incurred by such supplies of deficiencies, certified by one of the inspectors-general of prisons, according to the forms in the schedules marked (B.) and (C.) annexed to this Act, or in any similar forms respectively approved by the judges of his Majesty's Court of King's Bench in *Dublin*; and such collector of Excise is hereby required to administer an oath to such local inspector, or other gaol officer, of the accuracy of such account; and such collector of Excise shall thereupon pay to the said local inspector or other officer the amount of such account out of any public monies in the hands of such collector of Excise; and the grand

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c. 74.

and hung up in the Hall of the Prison.

Dietary Table may be altered.

Accounts of Provisions, and other Allowances, to be kept in Form required by Schedule (A.)

Inspectors-General to regulate the Establishment of each Gaol; and order the Supply of Dresses, Beds, &c.

Accounts of Expences to be presented to the Collector of Excise, who shall pay the same.

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7 Geo. IV.

c. 74.

Grand Juries
may appoint
Matrons, &c.,
for Gaols, to be
paid by Pre-
sentment.

Grand Juries
to set apart
Houses of Cor-
rection in Pri-
sons, and ap-
point Keepers
thereof.

Proviso for
Sheriffs.

Lord Lieu-
tenant may
discontinue
Bridewells.

Grand Jury
shall present
for building of
Bridewells in
Towns where
Sessions are
held.

District Bride-
wells appointed.

jury of such county county of a city or county of a town, shall and are hereby required to make presentment to the said collector of Excise of the amount of such payments at the next succeeding assizes.

LXXXVIII. And be it further enacted, That it shall and may be lawful to and for every grand jury in *Ireland*, at any assizes or presenting term respectively, and they are hereby required to appoint a matron, and such inferior female attendant or attendants as they shall deem necessary, for any county prison within their respective counties; and every such matron and attendant shall be paid such salary as shall from time to time be fixed or agreed on by the grand jury, with the approbation of the court for that purpose; the same to be raised by presentment on the county county of a city or county of a town.

LXXXIX. And be it further enacted, That it shall and may be lawful to and for the grand jury of any county county of a city or county of a town in *Ireland*, if they shall see fit, by their order to appoint and appropriate such part or parts of the gaol thereof, or such building or buildings contiguous or adjoining thereto, as such grand jury shall think fit, to be a house or houses of correction for the custody and punishment of convicted prisoners; and it shall and may be lawful for any grand jury in every such case to appoint a keeper or governor of such house of correction, with such salary as to such grand jury shall seem meet; and every such keeper or governor of such house of correction shall be subject and liable to, and shall obey and comply with all the rules and regulations prescribed for gaolers: Provided always, that nothing in this Act contained shall be construed to extend to prevent the governor or keeper of the house of correction in any county county of a city or county of a town, from being the keeper or governor of the common gaol: Provided also, that the sheriff shall not be answerable for the safe custody of any person who, in pursuance of any such order, shall from time to time be removed to committed to or detained in any part of such gaol, or any united or contiguous buildings so ascertained and declared to be the house of correction as aforesaid.

XC. And whereas many bridewells now existing in various parts of *Ireland* are unnecessary, and destitute of the accommodation required, as well in the construction as in the management thereof; and some bridewells of the largest class are rendered useless by the immediate transmission of all prisoners to the county gaols, often to the inconvenient crowding of the same, and many such bridewells are unprovided with the furniture and supplies required for prisoners according to law; be it therefore enacted, That it shall and may be lawful for the lord lieutenant or other chief governor or governors of *Ireland* for the time being, from time to time, by warrant to be published in the *Dublin Gazette*, to order that any bridewells shall be discontinued, and shall no longer be used as a bridewell or prison; and that from and after such day as shall be named in such warrant in that respect, it shall not be lawful to imprison or confine any person therein, under any order or authority, or on any pretext whatsoever; any law usage or custom to the contrary notwithstanding.

XCI. And be it further enacted, That it shall and may be lawful to and for each and every grand jury in *Ireland*, at the respective assizes, and they are hereby respectively required to make presentments for the building one bridewell of competent size in each and every town within their respective counties which shall be duly appointed for holding quarter sessions, and also in such other town or towns in the said counties respectively as shall from time to time be appointed or directed for that purpose by the lord lieutenant or other chief governor or governors of *Ireland* for the time being, by warrant under hand and seal.

XCII. And be it further enacted, That it shall and may be lawful for the lord lieutenant or other chief governor or governors of *Ireland* for the time being, to direct that such bridewells as shall be continued shall be divided into two classes; and that one class of the said bridewells to be selected and appointed by the lord lieutenant or other chief governor or governors of *Ireland*, shall be denominated district bridewells, to each

of which bridewells a certain district within the county shall be allotted; and that all prisoners committed within such district, either for trial at or under sentence passed by the court of quarter sessions, shall be kept and remain in such district bridewell, and shall not be transmitted to the county gaol, unless some order to that effect shall be made by competent authority; and it shall and may be lawful, in the event of a crowded state of the county gaol, on the report of the local inspector thereof, for the keeper of any such district bridewell to detain therein any prisoner committed for trial at the assizes for the county, until within a reasonable time prior to the assizes: Provided always, that in case of imprisonment for a period exceeding four months, or in any case in which it shall appear to the court to be necessary, it shall and may be lawful, by the order and at the discretion of the court by whom judgment shall be passed, to send any prisoner to the county gaol or house of correction; and provided that no persons committed for debt shall be confined in any such bridewell; and it shall and may be lawful for the grand jury of any county in which a district bridewell is or shall be appointed, to present any reasonable sum for the medical and other necessary expences attending the support and maintenance of the same.

XCIII. And whereas many bridewells are situate at so great a distance from the gaol of the county, that it is impossible that any benefit can be derived to any such bridewells from the inspectors and other officers of such gaols respectively; be it enacted, That the officiating clergyman of the established church of and in every parish in *Ireland* in which there shall be a bridewell, which shall be distant more than three miles from the gaol of the county, shall be deemed and reputed to be, and is hereby made and declared to be the inspector of such bridewell; and it shall be lawful to and for such clergyman to execute the duty of directing and superintending according to law the supply of such bridewell with necessaries; and all poor prisoners therein shall be supplied with such necessaries, in the same manner under the same regulations and out of the same funds as poor prisoners in the county gaol.

Inspection of
Bridewells distant
more than
Three Miles
from County
Gaols.

XCIV. And be it further enacted, That no prisoner shall be detained in any bridewell, except in district bridewells selected as aforesaid longer than three days from the day of committal, unless two justices of the peace of the county county of a city or county of a town shall think proper, by order in writing, to direct that such prisoner be longer detained for the purposes of examination, and then only for the time mentioned in such order, or any renewal thereof; but that all such persons shall be diligently transmitted to the county gaol or district bridewell, as the case may be: Provided always, that if any such bridewell shall be distant more than twelve miles from such county gaol or district bridewell, then any such prisoner may, if the committing magistrate shall so direct by order under his hand, be detained in such bridewell until the first week in the calendar month next after such committal, but not longer, so that all the prisoners committed in any one calendar month may be sent under one escort.

Prisoners shall
be sent from
Bridewells to
County Gaols
without delay.

Detention
where Bride-
well is distant
more than
Twelve Miles.

XCV. And whereas in many bridewells persons have been detained and discharged without any regular committal, and no sufficient record has been hitherto kept of committal or discharge of prisoners, and in many bridewells no allowance of beds, bedding, food, or necessaries are provided; be it therefore enacted, That a return or record shall be made and kept by the keeper of every bridewell in *Ireland*, not being a district bridewell as aforesaid, in the form in the schedule to this Act annexed marked (D.), or in any other form approved of by the judges of his Majesty's Court of King's Bench, or any one or more of them; one copy of which return of record shall be preserved in such bridewell, and two copies shall be transmitted for the inspectors-general of prisons, to the office of the chief secretary to the lord lieutenant or other chief governor or governors of *Ireland*, in *Dublin Castle*, within fourteen days after the thirteenth day of *March*, the thirteenth day of *June*, the thirteenth day of *September*, and the thirteenth day of *December*, in each and every year; and that one of the said copies so transmitted for the inspectors-general of prisons shall

Returns from
other Bride-
wells to be made
in the Form in
Schedule (D.)

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c. 74.

be returned by one of them to the inspector or keeper of such bridewell, certified by such inspectors-general, or one of them; and that such copy so certified shall be produced by the inspector or keeper of such bridewell to the collector of Excise of the district in which such bridewell shall be situated; and such collector of Excise is hereby required to administer to such inspector or keeper an oath to the truth of such account, and thereupon to pay to such inspector or keeper the amount of the expence so incurred and specified in such account, together with such allowances for fire candles and straw, not exceeding thirty shillings in any one quarter of a year, as shall be certified by such inspectors-general; and it shall be lawful for the grand jury of the county, and they are hereby required, on production of such account by such collector of Excise, at the next ensuing assizes, to make presentment for the amount of such account to be paid to such collector of Excise.

Prisons in local Jurisdictions shall be abolished, and Persons arrested within such Jurisdictions shall be imprisoned in the County Gaol.

XCVI. And whereas there are in *Ireland* several towns corporate and other places locally situate within some county or county of a city or county of a town, such towns corporate and other places having a power of trying certain offences, and of committing to prison persons charged therewith or convicted thereof; and also having or claiming to have or enjoy and exercise, either by grant or prescription, the right and privilege of having courts holding pleas and issuing process against defendants resident within such jurisdictions respectively, and to hold such defendants to bail, and also to take and arrest plaintiffs and defendants so resident and so impleaded, in execution, and to commit them to prison: And whereas much inconvenience has arisen from the insecurity and insufficiency of the various small prisons locally attached to and used by such inferior courts; and it is very difficult, if not impossible, unless such local prisons be abolished, to carry into effect any general system of gaol discipline, or to provide for the poor prisoners confined therein a regular supply of wholesome food and other necessities; be it therefore enacted, That from and after the first day of *January* one thousand eight hundred and twenty-seven, all such prisons shall be and are hereby abolished; and that all and every person and persons, who at any time after the said first day of *January* one thousand eight hundred and twenty-seven shall or may be arrested or confined under any mesne or final process, civil or criminal, issuing out of or from any court of local or inferior jurisdiction, having legal authority for that purpose, and which authority shall have been used or acted upon at any time within six years next before the said first day of *January* one thousand eight hundred and twenty-seven, shall and may be committed to the common gaol of the county or county of a city or county of a town, as the case may be, in which such town corporate or other place is situated, under like authority and in like manner as any person arrested under such process was, before the passing of this Act, liable to be committed to the local prison attached to such court of inferior jurisdiction: Provided always, that every person so committed shall, to all intents and purposes, be deemed and taken to be in the custody of the court out of which such process shall issue, or of the proper officer of or under such court, in the same manner as if such person had been committed to such local prison; and that the sheriff of such county or county of a city or county of a town, shall be responsible to the court out of which such process shall issue, and to the proper officer of or under such court, for the safe keeping of the body of every such person during the time for which such person shall be committed to such common gaol of such county city or town; and that no action for escape or other action shall or may be maintained against the lord of any liberty or franchise, or the officer of any inferior court of jurisdiction, for or by reason of the sending or committal of any person as aforesaid to the general gaol of any such county or county of a city or county of a town as aforesaid, or for any matter or thing necessarily done or committed for the purposes aforesaid, although such person may thereby be removed and taken out of any such town corporate liberty or other place having such court of inferior jurisdiction as aforesaid.

XCVII. Provided always, and be it enacted, That it shall and may be lawful for any Lord Lieutenant to authorize the Continuance thereof.

lawful for the lord lieutenant or other chief governor or governors of *Ireland*, and he and they is and are hereby authorized and empowered, upon application on behalf of any town corporate or other place as aforesaid, and upon satisfactory proof that a sufficient gaol has been built at the expence of such town corporate or other place as aforesaid, and is in existence, and that sufficient provision is made for maintaining proper discipline within the same, and for the carrying into effect in such gaol the several provisions of this Act, relating to the supplies thereof, to order that the prison of such town corporate or other place as aforesaid may be continued, as if this Act had not been made in that respect: Provided also, that nothing in this Act shall extend to the abolition of the marshalsea of the city of *Dublin*.

XCVIII. And be it further enacted, That every person so arrested or confined according to the provisions of this Act in the common gaol of any county or county of a city or county of a town, under any process out of any court of local or inferior jurisdiction, shall and may from time to time be taken from and out of such common gaol, and carried before the court out of which such process shall issue, by and in the custody of the officers of such court, for any purpose which may be required by such court; and that in any such case no action for escape or other action shall or may be maintained against the sheriff of the county county of a city or county of a town, to the gaol of which such person shall have been committed by virtue of this Act, nor for any matter or thing done or committed in or resulting from the removal of such person for such purposes as aforesaid.

XCIX. And be it further enacted, That during such time as any person arrested or confined under any process of any court of local or inferior jurisdiction shall, according to the provisions of this Act, be committed to and be confined in the common gaol of any county county of a city or county of a town in which such local jurisdiction shall be situate, all the charges and expences of the maintenance of such prisoner shall be borne and paid by the proper officers of such local or inferior jurisdiction, in such manner and to such amount as shall be ascertained by the grand jury of the county county of a city or county of a town in which such common gaol shall be situate; and it shall be lawful for such grand jury, and they are hereby authorized and empowered from time to time (with the consent of the court or judge), to make any presentment or presentments of the amount of such expences, to be paid by the proper officer of such local jurisdiction, at any assizes to be holden for such county county of a city or county of a town respectively; and such amount shall be paid accordingly, and shall be recoverable in a summary way, by civil bill, at the suit of the treasurer of such county county of a city or county of a town, against the proper officer or officers of such local jurisdiction.

C. And be it further enacted, That in all cases where it shall happen that the gaol or prison of any county at large in *Ireland* shall be situate within any county of a city or county of a town, and there shall not be any separate gaol or prison for such county of a city or county of a town within which it is practicable to carry into effect the provisions of this Act, it shall and may be lawful for the lord lieutenant or other chief governor or governors of *Ireland* to direct and order that all prisoners within such county of a city or town shall be committed to and shall be kept in custody in the gaol of such county at large, so being situate in such county of a city or town; and in case of such order or direction of the lord lieutenant or other chief governor or governors of *Ireland*, the maintenance of such prisoners, and a due proportion of the other expences of such county gaol, shall be provided for by presentments, to be made by the grand jury of the county of a city or county of a town to which such prisoner shall belong, in lieu of all other presentments in respect of the gaol of such county of a city or town, and the sums presented for the maintenance of such prisoners, shall be paid by the treasurer of such county of a city or county of a town to the treasurer of such county at large.

Proviso for
Dublin City
Marshalsea.

Prisoners may
be taken from
the County
Gaols before
Courts of local
Jurisdiction.

Local Jurisdic-
tions shall main-
tain their Pri-
soners when
committed to
County Gaols.

Where the
County Gaol is
situate in a
County of a
City or Town
Lord Lieu-
tenant may or-
der all Prison-
ers of such City
or Town to be
committed to
the County
Gaol.

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7 Geo. IV.

c. 74.

Persons arrested in inferior Jurisdictions, under Process out of superior Courts, shall be committed to the County Gaol.

Where inferior Jurisdiction extends into Two Counties, Persons arrested shall be imprisoned in the Gaol of the County where resident.

Salary to Keepers of District and other Bridewells, by Presentments of Grand Juries.

Poor Prisoners shall be kept to work.

Persons committed for Trial may be allowed to work, and shall receive a Portion of their Earnings.

CI. And be it further enacted, That in all cases where any writ or process shall issue from the Courts of King's Bench Common Pleas or Exchequer in *Ireland*, requiring the seneschal bailiff or other officer of any liberty or franchise to arrest the body or bodies of any offender or offenders or defendant or defendants, or where any writ or process shall be endorsed by the sheriff of any county county of a city or county of a town within which any such liberty or franchise, or any part thereof, is situate, requiring and commanding such seneschal bailiff or other officer to make execution of such writ or process, every person arrested under such writ or process shall be committed to the common gaol of the county county of a city or county of a town within which any such liberty or franchise or part thereof is situated; and that every person so imprisoned shall be deemed and taken to be in the custody of the seneschal bailiff or other officer of such liberty or franchise, as fully and effectually as if such person were committed to the local prison of any such liberty or franchise; and the seneschal bailiff or other officer of any such liberty or franchise shall not be liable to any action for or by reason of such committal to such common gaol.

CII. And be it further enacted, That where any town corporate, liberty, franchise, or other place, having any court of inferior jurisdiction, shall be situated partly within one county and partly within another county, or partly within a county and partly within a county of a city or county of a town, every person who shall or may be arrested under any such writ or process as aforesaid, within such inferior jurisdiction as aforesaid, shall be committed to the common gaol of the county county of a city or county of a town, within which that part of such town corporate, liberty, franchise, or place shall be situate, where such person may be resident at the time of the arrest of such person respectively; and if such person shall have no residence therein, then in that part thereof where such arrest shall be made.

CIII. And be it further enacted, That it shall be lawful for the grand jury of every county, and they are hereby required to present for each keeper of any district bridewell, a salary of not less than forty pounds a year, and for each keeper of every other bridewell, a salary of not less than ten pounds a year; and one half of every such salary respectively shall be presented at each assizes to be holden for each county.

CIV. And be it further enacted, That the keeper of each and every prison in *Ireland* shall have full power and authority, and he is hereby required to keep every poor prisoner in such prison to work of such kind as the grand jury or board of superintendence, or in their default any three justices of the peace respectively, shall direct and appoint by any order to be made for that purpose: Provided always, that no person shall be put to hard labour who has not been convicted of some offence, and sentenced to imprisonment for the same.

CV. And whereas persons are often committed to prison for trial, who, not being poor prisoners as aforesaid, are willing to be employed in such work or labour as can be conveniently executed or done in the prison to which they are so committed, and it is fit that such persons should be so employed, rather than that they should be obliged to remain idle during their confinement; be it therefore enacted, That it shall and may be lawful for the board of superintendence of any prison to which this Act shall extend, to authorize, by an order in writing, the employment of any such prisoners, with their own consent, in any such work or labour; and it shall be lawful for the keeper of such prison to employ such prisoner in such work or labour accordingly, and to pay to such prisoners any such wages, or portion of the same, and at such periods as shall be directed by such board of superintendence: Provided always, that it shall not be lawful to place together on account of such employment, any prisoners who would otherwise be kept separate under the provisions of this Act; and provided further, That such consent of every such prisoner shall be freely given, and shall not be extorted or obtained by deprivation, or threat of deprivation, of any prison or other allowance; and that no prisoner before conviction, of any prison or other allowance; and that no prisoner before conviction,

Prisoner to
be kept on the Tread Wheel before Conviction.

tion shall, under any pretence, be employed on the tread wheel, either with or without his consent.

CVI. And be it further enacted, That all materials and tools necessary for any such work, and all books and teachers or schoolmasters necessary for the learning of any trade, as well as for the instruction of every such poor prisoner in reading and writing, shall be in like manner provided, and the expence thereof raised by presentment as aforesaid.

CVII. And be it further enacted, That in every prison in *Ireland* an account shall be kept by the keeper of such prison, of any profits which may arise from the work of each poor prisoner therein, and one-third of such profits, if any shall arise, shall be for the use of such poor prisoner, and that the other two-thirds of such profits shall be applied in and towards the payment of, and for the several necessities supplied to the poor prisoners in such prison as therein provided; and the balance only shall be paid from time to time out of the funds herein directed in that behalf respectively: Provided always, that no claim shall be made to any portion of the earnings in the event of no profit arising from the work, or in the case of persons sentenced to hard labour under any law for that purpose which may at any time be in force in *Ireland*.

CVIII. And be it further enacted, That the keeper of every prison in *Ireland* shall be held responsible for the execution of every sentence to the tread wheel or other description of hard labour within the gaol, and shall previously to the first day of every assizes make out a true and just return in writing in the form in the schedule to this Act annexed, marked (F.) or in some other form to be approved by the judges of his Majesty's Court of King's Bench, or any one or more of them, of all persons in his custody who have been sentenced to the tread wheel or other hard labour by the court at any previous assizes, specifying in such return the manner in which such sentences have been carried into execution, the particular species of labour in which such prisoners have been employed, and the average number of hours in a day for which such persons so sentenced have been kept to work; which return shall be signed by such keeper, and also by the local inspector, or by one at least of the board of superintendence of such prison, who shall add thereto such observations as the case and circumstances may appear to him to require; and such return shall be delivered to the justice of assize and gaol delivery, and shall be kept and filed by the proper officer amongst the records of the court.

CIX. And be it further enacted, That the following rules and regulations shall be strictly observed, and carried into force and effect in every gaol, house of correction, marshalsea, bridewell, sheriff's prison and other prisons throughout *Ireland*, so far as the same shall be practicable therein; (that is to say,)

First:—It shall not be lawful for any woman to be keeper of any prison.

Second:—The keeper of each prison shall reside therein; he shall not be an under-sheriff or bailiff, nor shall he be concerned in any occupation or trade whatsoever; no keeper or officer of a prison shall sell, nor shall any person in trust for him, or employed by or under him, sell or have any benefit or advantage from the sale of any article to any prisoner, nor have directly or indirectly any interest in any contract or agreement for the supply of the prison.

Third:—A matron shall be appointed in every prison in which female prisoners shall be confined, who shall reside in the prison, and it shall be the duty of the matron constantly to superintend the female prisoners.

Fourth:—The keeper shall, as far as may be practicable, visit every ward, and see every prisoner, and inspect every cell once at least in every twenty-four hours; and when the keeper or any other officer shall visit the female prisoners, he shall be accompanied by the matron, or in case of her unavoidable absence, by some female officer of the prison.

Fifth:—No tap shall be kept in any prison, nor shall spirituous liquors of any kind be admitted for the use of any of the prisoners therein, under any pretence whatever, unless by a written order of the physician or surgeon, specifying the quantity, and for whose use; no wine, beer,

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7 Geo. IV.
c. 74.

Materials,
Tools, &c., shall
be provided.

Poor Prisoner
shall have One-
Third of Profit,
and Two-Thirds
shall be applied
to his Main-
tenance.

Returns of Per-
sons sentenced
to hard Labour
to be made at
the several
Assizes by
Keepers of
Prisons.

Rules and Re-
gulations for
the Manage-
ment of the
several Prisons
and Classifica-
tion of the Pri-
soners.

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7 Geo. IV.

c. 74.

cyder, or other fermented liquors shall be admitted for the use of any prisoners, except in such quantities, in such manner, and at such times, as shall be allowed by the rules hereafter to be made in pursuance of this Act.

Sixth :—The person or persons whose duty it shall be to deliver out bread or other provisions, or one of the said persons, and the keeper of the prison, shall attend for that purpose every day, and shall take care that the same is properly distributed, according to the wants of the prisoners respectively, and that it is not more than twenty-four hours since any bread which may be so distributed had been baked; and such person or persons shall not suffer any prisoner to commute the said allowance, by receiving the value thereof in money, or in any other manner whatsoever.

Seventh :—The walls and ceilings of the wards, cells, rooms, and passages used by the prisoners, throughout every prison, shall be scraped and limewashed, at least twice in the year; and the day rooms passages and sleeping cells shall be washed or cleansed once a week, or oftener, if requisite; the straw shall be changed once in every two months; convenient places for the prisoners to wash themselves shall be provided, with an adequate allowance of soap towels and combs; a fire shall be lighted in the day rooms, for ten hours in the day, from the first day of *October* to the first day of *April* in every year, and at such other times as the board of superintendence of the gaol shall deem necessary.

Eighth :—The classification herein-before directed and required by this Act shall be invariably carried into effect, and the debtors shall be separated into two divisions, those who are maintained by the public being placed in every respect on the same footing as untried poor prisoners of any other class.

Ninth :—That all prisoners shall have free access to the bath and necessary, in their respective parts of the prison, at all reasonable hours; and shall also be admitted at proper times in succession, to air themselves in the yard or yards, for at least two hours in every day, except prisoners under sentence of death, and such persons as shall be riotous or disorderly, or where there may be sufficient cause to apprehend that an escape may be attempted.

Tenth :—No horses, cows, hogs, pigs, cattle, or poultry of any kind, shall be kept within the boundary walls of any prison.

Eleventh :—No prisoner, even when condemned to death, shall be put into a dungeon or room under ground.

Twelfth :—No smoking, gambling, swearing, indecent language or unreasonable noise, shall be allowed in any prison.

Thirteenth :—The local inspector shall visit every prison under his inspection twice at least in every week; at each visit he shall go into every room in the prison, and if any complaint shall be made by the prisoners, or any of them, or against the gaoler or his assistants, the inspector shall immediately inquire into the particulars of such complaint, and if the same shall appear to be well founded, he shall report accordingly to the inspector-general of prisons, and to the board of superintendence.

Fourteenth :—The said local inspectors shall each of them report specially on oath the state of each and every prison under their inspection respectively; the inspector or inspectors for the county of *Dublin* and county of the city of *Dublin*, to the Court of King's Bench in every term, and the inspectors for all the other counties, to the judge at each assizes.

Fifteenth :—The keeper of every prison shall have power to hear all complaints touching any of the following offences; (that is to say), disobedience to any of the rules of the prison; assaults by one person confined in such prison upon another, when no dangerous wound or bruise is given; profane cursing and swearing; any indecent behaviour, and any irreverent behaviour at chapel, all of which are declared to be offences by this Act, if committed by any description of prisoners;

breaking windows or otherwise injuring the prison or any part of the furniture thereof; absence from chapel without leave; idleness or negligence in work, or wilful mismanagement of it; and the said keeper may examine any person touching such offences, and may determine thereupon, and may punish all such offences, by ordering the offender or offenders to close confinement in the refractory or solitary cells, and by keeping such offenders respectively upon bread and water only, for any term or terms respectively, not exceeding in any instance three days.

Sixteenth:—In case any prisoner shall be guilty of repeatedly offending against the rules of the prison which shall be then existing, or shall be guilty of any greater offence against the said rules than the gaoler or keeper is by this Act empowered to punish, the said gaoler or keeper shall forthwith report the same to any justice of the peace acting in and for the county or county of a city or county of a town to which such prison belongs, being a member of the board of superintendence of such prison, and in their default any other justice acting in and for the said county or county of a city or county of a town to which such prison belongs; and any one justice shall have power to inquire upon oath, and to determine concerning any such offence so reported to him or them, and to order such offender to be punished by solitary confinement on bread and water, for any term not exceeding one calendar month.

Seventeenth:—No prisoner shall be put in irons by the keeper of any prison, except in case of urgent and absolute necessity, and the particulars of every such case shall be forthwith entered in the keeper's journal, and notice forthwith given thereof to one of the board of superintendence appointed under this Act, or in the county of the city of *Dublin* to any justice of the peace or magistrate for the county of the said city, and the keeper shall not continue the use of irons on any prisoner longer than four days, without an order in writing from a member of the said board of superintendence, being a justice of the peace, (or in the county of the city of *Dublin* from any justice of the peace or magistrate there,) specifying the cause thereof, which order shall be preserved by the keeper as his warrant for the same.

Eighteenth:—Female prisoners shall in all cases be attended by female officers.

Nineteenth:—Due provision shall be made for the admission, at proper times and under proper restrictions, of persons with whom prisoners committed for trial may desire to communicate, and such rules and regulations shall be made by the board of superintendence, or in the county of the city of *Dublin* by the grand jury, with the approbation of the Court of King's Bench, for the admission of the friends of prisoners, as to such board or grand jury may seem expedient; and the board or grand jury shall also impose such restrictions upon the communication and correspondence of all prisoners with their friends, either within or without the walls of the prison, as they shall judge necessary for the maintenance of good order and discipline in such prison.

Twenty:—The physician or surgeon shall examine every prisoner who shall be brought into the prison, before he or she shall be passed into the proper ward; and no prisoner shall be discharged from prison, if labouring under any acute or dangerous distemper, nor until, in the opinion of the surgeon or physician, such discharge is safe, unless such prisoner shall require to be discharged; the wearing apparel of every prisoner shall be fumigated and purified, if requisite, after which the same shall be returned to him or her, or other sufficient clothing shall be furnished according to the rules and regulations of the prison.

Twenty-first:—Every prisoner shall be provided with suitable bedding, and every male prisoner with a separate bed hammock or cot, either in a separate cell, or in a cell with not less than two other male prisoners.

Twenty-second:—Upon the death of a prisoner, notice thereof shall be

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7 Geo. IV
c. 74.

given by the keeper forthwith, to some member of the board of superintendence, being a justice of the peace, or in the county of the city of *Dublin* to any justice of the peace or magistrate, as well as to the coroner of the district, and to the nearest relative of the deceased, where practicable; and in case the coroner shall hold an inquest on the body of any prisoner, none of the prisoners confined in that prison shall be a juror on such inquest.

Twenty-third:—The keeper of every prison shall be provided with a copy of this Act.

Twenty-fourth:—The local inspector shall, in his reports of the state of every prison (according to the fourteenth rule) under his inspection, insert a copy of the foregoing regulations, at full length; and in a separate column, opposite to each of the said regulations, shall certify and state how far each of them has been observed and complied with; and shall also state and set down how far the several other directions contained in this present Act have been observed and executed, and particularly whether the poor prisoners have been supplied with the food clothing and bedding prescribed by this Act.

Penalty on conveying Spirituous Liquors into Prisons.

CX. And be it further enacted, That if any person shall carry or bring, or attempt or endeavour to carry or bring, into any prison in *Ireland*, any spirituous or fermented liquor, unless under the order of some competent authority, it shall be lawful for the keeper or other officer to apprehend or cause to be apprehended such offender, and to carry such offender before a justice of the peace, (who is hereby empowered to hear and determine such offence in a summary way,) and if such justice shall lawfully convict such person of such offence, he shall forthwith commit such offender to the common gaol or house of correction, there to be kept in custody for any time not exceeding three months without bail or mainprize, unless such offender shall immediately pay down such sum of money, not exceeding twenty pounds, as such justice shall impose upon such offender; to be paid, one moiety to the informer, and the other moiety to the treasurer of the county, in aid of the maintenance of such prison; and if any keeper of any prison, or any prisoner or other person, shall sell, use, lend, or give away, or knowingly permit or suffer to be sold, used, lent, or given away in such prison, or brought into the same any spirituous or fermented liquors, he shall for every such offence, over and above any other punishment by this Act inflicted, forfeit and lose the sum of twenty pounds; or if a prisoner, he or she shall in lieu of such penalty be placed in solitary confinement for any period not exceeding one calendar month.

For supplying discharged Prisoners with the Means of returning to their Homes, &c.

CXI. And whereas it is desirable that prisoners discharged from prison should be supplied with the means of returning to their families, or to some place of employment where they may be engaged in a life of honest labour for their maintenance, and prevented from pursuing evil courses; be it therefore enacted, That it shall and may be lawful for any two justices of the peace or magistrates in the county of the city of *Dublin*, and for the board of superintendence of any prison in any other place in *Ireland*, from whence any prisoner shall be discharged, to direct that such moderate sum of money shall be given and paid to any and every such prisoner so discharged, who shall not have the means of returning to his or her family or place of settlement, or resorting to any place of employment or honest occupation, as in the judgment of such justices or board shall be requisite and necessary for such purpose, under all the circumstances attending the case of any such prisoner; and that such sum of money shall be paid by the inspector of such prison to or for the use of such prisoner for the purpose aforesaid; and that all such sums shall be provided for, or in such manner as is by this Act directed with respect to the expence of the support and maintenance of the prisoners in any such prisons respectively.

Court of King's Bench empowered to make Rules andutions.

CXII. And whereas it may hereafter be found expedient that new and additional rules and regulations for all prisons, or for any particular prison or prisons in *Ireland*, should from time to time be made for the furtherance of the provisions of this Act; be it therefore enacted, That

it shall and may be lawful for his Majesty's Court of King's Bench in *Ireland*, if such court shall think proper, to order direct and ordain that any such rules or regulations shall be altered, or that any new rules and regulations, whether temporary or permanent, shall be made for the better government of all or any prisons or prison in *Ireland*, and the officers thereof, and the provisions therein respectively, and for the classification and distribution of prisoners, and generally either with respect to all prisons, or to any kind or description of prisons or to any particular prisons or prison in *Ireland*, at the discretion of such court, provided the same be not inconsistent with the provisions of this Act; and it shall and may be lawful for his Majesty's Court of King's Bench, on proof of disobedience to such rules and regulations, or of any misconduct on the part of any inspector, or of any keeper or other officer of any prison, by a summary order, to dismiss such inspector or keeper, or other officer so offending, from his office: Provided always, that no officer so dismissed shall be re-eligible to his office, by any sheriff grand jury or other authority whatever, without the permission of the lord lieutenant or other chief governor or governors of *Ireland*; and every officer holding any office in any prison or prisons in *Ireland*, shall, while he shall hold that office, be deemed taken and considered in respect thereof, as an officer of the said Court of King's Bench, and subject to the orders thereof as such.

CXIII. And be it further enacted, That every keeper of any county prison, and the inspector and every other officer of such prison, shall, at all reasonable hours, attend in such prison, on due notice for that purpose, in order to give to the board of superintendence, or any three of them as aforesaid, such information as may be necessary, on oath, or otherwise as shall be required by them, concerning such prison and the officers thereof, or any of them, and concerning the prisoners therein, or any of them, and relating to all matters connected with the order and good government of such prison; and if any such keeper inspector or other officer shall refuse so to attend, or to be examined, or to give sufficient answer to any inquiry, it shall and may be lawful for any one of such board of superintendence to make complaint thereof to the Court of King's Bench, or in vacation to any judge thereof, and such court or judge may commit such offender as in cases of contempt of the said Court of King's Bench.

CXIV. And be it further enacted, That it shall and may be lawful to and for the lord lieutenant or other chief governor or governors of *Ireland* for the time being, by and with the advice and consent of his Majesty's Privy Council in *Ireland*, from time to time to make such rules orders and regulations as shall appear to the said lord lieutenant and the privy council to be requisite and necessary for the management and regulation of the *Smithfield* Penitentiary and of the *Richmond* Bridewell in *Dublin*, and for the appointment of the gaolers keepers and all other officers of the said penitentiary and bridewell respectively; and such prisoners only shall be committed to and confined in the said penitentiary and bridewell respectively as shall be specified and directed in and by such rules orders and regulations; and such rules orders and regulations may be from time to time altered and amended in like manner; and also that it shall and may be lawful for the lord lieutenant or other chief governor or governors of *Ireland*, for the time being, by and with the advice and consent of the said privy council, from time to time to make such rules orders or regulations as shall appear to such lord lieutenant or other chief governor or governors and privy council to be necessary for the classification and separation of all prisoners in any prisons which are or may be situate or established within the county of the city of *Dublin*, by allotting and appointing the said several prisons for the custody of one or more class or classes of prisoners, and by directing what class or classes of prisoners shall be committed or removed to *Newgate*, what class or classes of prisoners shall be committed or removed to the *Smithfield* Penitentiary, and what class or classes of prisoners shall be committed or removed to the *Richmond* Bridewell, or to any other prison which may be situated or established within the county of the city of *Dublin*; and such prisoners

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c. 74.

Keepers of
Gaols, Inspectors, and Officers shall attend and answer all Inquiries of the Board of Superintendence.

Lord Lieutenant may make Orders for the Regulation of the *Smithfield* Penitentiary and *Richmond* Bridewell, and for the Classification of Prisoners there.

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c. 74.

Prisoners may be committed to and removed from any one of the Prisons in Dublin as the Lord Lieutenant shall direct.

Offenders may be committed to any House of Correction within the County.

Where One House of Correction for Two or more Counties, Offenders in all such Counties may be committed thereto.

A Hulk or Depot shall be appointed for every County, to which Convicts for Transportation shall be transmitted.

Convicts to have new Dresses.

Marshalsea of the four Courts to be under care of the Marshal.

only shall in future be committed or removed to or be confined in the said gaol of *Newgate*, and the said penitentiary and bridewell or other prison respectively, as shall be specified and directed in and by such rules orders and regulations, and such rules orders and regulations as may be from time to time altered and amended by the lord lieutenant and other chief governor or governors of *Ireland* for the time being, by and with the advice and consent of the said privy council.

CXV. And be it further enacted, That it shall and may be lawful for the sheriffs of the city of *Dublin*, and for the keepers of the gaol of *Newgate* in the said city, and for the keepers of the said *Smithfield* Penitentiary and *Richmond* Bridewell respectively, or any other prison which may be situated or established within the county of the city of *Dublin*, from time to time to receive into their custody any prisoner or prisoners committed or removed to the said gaol penitentiary or bridewell respectively, and also to remove any prisoner in the said gaol of *Newgate*, or in the said penitentiary or bridewell or other prison respectively, from any one of the said prisons respectively into any other of the said prisons, pursuant to an order of the lord lieutenant or other chief governor or governors of *Ireland* and the said privy council, made pursuant to this Act, and no such removal shall be construed to be an escape; and all such prisoners shall and may be lawfully detained in such gaol penitentiary or bridewell, to which they shall be committed or removed in pursuance of such orders, and shall be deemed in the proper custody; any law usage or custom to the contrary notwithstanding.

CXVI. And be it further enacted, That whenever any person shall be lawfully convicted before any court or judge or justice of the peace of any offence, and shall be punishable by imprisonment, it shall and may be lawful for such court or judge or justice to sentence such offender to be confined in any house of correction within and belonging to the county county of a city or county of a town, where such offender shall be convicted, and such offender shall and may be committed to and detained in such house of correction accordingly; any law usage or custom to the contrary notwithstanding; and in all cases where any one house of correction shall have been or shall be built repaired or enlarged at the joint expence of any two or more counties or counties of cities or counties of towns, it shall and may be lawful for the court or justice before whom any offender shall be convicted, in either or any of the said counties or counties of cities or towns, of any offence, and shall be punishable by imprisonment, to sentence such offender to be confined in such house of correction, although such house of correction may not be locally situated within the county county of a city or county of a town within which such offender shall be convicted; and such offender shall and may be committed to and detained in such house of correction accordingly; any law usage or custom to the contrary notwithstanding.

CXVII. And whereas great evils arise from the detention in county gaols of convicts sentenced to transportation; be it therefore enacted, That for each county a particular hulk or depot shall be named by the lord lieutenant or other chief governor or governors of *Ireland*, to which all prisoners convicted and sentenced to transportation shall be transmitted with all practicable expedition; and it shall and may be lawful for the inspector of the county gaol, on the day of such transmission, to order into the stores of the gaol all prison dresses belonging to the said convicts, and to issue to such convicts new dresses, an account of the amount of the cost of which shall be delivered by such inspector to the collector of Excise of the district in which such gaol shall be situate, upon oath, and thereupon such collector of Excise shall pay such amount to such inspector, out of any public monies in the hands of such collector of Excise.

CXVIII. And be it further enacted, That the marshalsea of the four courts shall be kept separate and distinct from all other prisons, and shall be under the care of the marshal of the four courts, to be appointed by and removable at the will and pleasure of the lord lieutenant or other chief governor or governors of *Ireland*, from time to time, for the time being.

CXIX. And be it further enacted, That the said marshal shall receive such salary as the lord lieutenant or other chief governor or governors of *Ireland* for the time being shall appoint, not exceeding the sum of nine hundred pounds *per annum*, to be paid out of the consolidated fund of the United Kingdom, and that he shall reside constantly in the marshalsea; and shall receive no fee or other emoluments whatever from the prisoners confined therein, or otherwise.

CXX. And be it further enacted, That the prisoners confined in the said marshalsea shall be divided into so many classes, and separated in such manner as the judges of his Majesty's Court of King's Bench shall appoint: Provided always, that there shall not be less than three classes of male prisoners; the first, containing prisoners paying rent for their lodging; the second, containing the common hall prisoners, subject to no rent, but who supply furniture food and necessaries for themselves; and the third, containing pauper prisoners, who shall be and are hereby entitled to all the allowances of furniture clothing and food afforded under this Act to prisoners in county gaols, and subject to the same regulations.

CXXI. And be it further enacted, That the rates of lodging to which the prisoners of the first class are to be made subject, as well as the apartments to which they shall extend, shall be regulated from time to time by the rules and regulations which shall be established in the said marshalsea by the judges of his Majesty's said Court of King's Bench; and that the amount thereof shall be received by the marshal, and shall be paid to the local inspector, and placed to the credit of his account.

CXXII. And be it further enacted, That in case the said marshal of the four courts, or his deputy, or other persons employed under him, shall demand, exact, take, or receive from any prisoner in the said marshalsea, any fee reward or gratuity, or shall not duly observe such rules as are or shall be from time to time prescribed; or shall exact any sum greater than the regulated rates for the lodging of the prisoners, then the said marshal for the time being, or his deputy, or such other person, whichever of them shall offend herein, shall forfeit for the first offence committed the sum of fifty pounds, the one moiety thereof to the King and the other moiety to the party aggrieved, who may sue for and recover the same by an action, suit, bill, or plaint, in any of his Majesty's superior Courts of Record at *Dublin*, wherein no essoin protection or wager of law, shall be allowed, nor any more than one imparlance; and if after such conviction he shall again offend as aforesaid, he shall for such second offence forfeit his office, and be incapable of holding or exercising the office of marshal of the four courts, or of being deputy marshal of the same, or of being employed under the four courts; provided that nothing herein contained shall prevent the receipt or recovery of any fees or rates for lodgings which shall be due to such marshal at any time previous to the commencement of this Act.

CXXIII. And be it further enacted, That in and for the marshalsea of the four courts of *Dublin* or any other prison, the expence whereof shall be defrayed out of the consolidated fund of the United Kingdom, it shall and may be lawful to and for the lord lieutenant or other chief governor or governors of *Ireland* for the time being, to appoint all such inspectors, chaplains, physicians, surgeons, apothecaries, and other officers respectively, as may be requisite for such marshalsea or other prison as aforesaid; and that the salaries of such inspectors, chaplains, physicians, surgeons, apothecaries, and other officers, as well as the expence of all articles which shall be furnished to any of the poor prisoners in the marshalsea of the four courts, or in any such other prison, shall be paid out of the consolidated fund, by warrant of the lord lieutenant or other chief governor or governors of *Ireland*, on being vouched by the local inspector on oath: Provided always, that one deputy marshal of the four courts marshalsea, three hatchmen, and all inferior officers necessary for the safe custody of prisoners, or the discipline of the prison, shall be appointed and paid by the marshal of such marshalsea.

No. XXIII.

7 Geo. IV.

c. 74.

Salary of the Marshal.

Classification of the Prisoners there to be under Orders of the Court of King's Bench.

Rates of Lodgings shall be under the like Orders.

Penalty on Marshal taking Fees.

Appointment of Inspectors, Chaplains, &c., to Prisons, the Expence of which is defrayed out of the Consolidated Fund.

Appointment of Deputy Marshal, &c.

No. XXIII.

7 Geo. IV.
c. 74.

Dublin City
Marshalsea
shall be kept
separate.
Keeper shall be
elected by the
Corporation.
Marshal not
liable for
Escapes.

Keeper to be
answerable for
the Custody of
Prisoners.

Such Keeper
shall not inter-
fere with Duties
of the Marshal
of Dublin.

Keeper of
Sheriff's Prison
to be under
Controul of
Court of King's
Bench.

Grand Jury
may present for
Salary of Keep-
er of Sheriff's
Prison and his
Officers, if the
Rents, &c., do
not appear
sufficient.

Marshal of City
Marshalsea shall
observe the
same Rules,
&c., as the
Marshal of the
Four Courts,
and be under
like Penalties.

CXXIV. And be it further enacted, That the marshalsea of the city of *Dublin* shall be kept separate and distinct from all other prisons, in a house and place by itself, under the care of such person or persons as shall be duly authorized and appointed to keep the same.

CXXV. And be it further enacted, That it shall and may be lawful to and for the corporation of the said city of *Dublin*, at any quarter assembly, or at any post assembly, held for that purpose, to elect and appoint a fit and proper person to be keeper of the said marshalsea prison : And it is hereby declared, that the marshal of the said city shall be exempt from the care and custody of the prisoners to be therein confined ; and that such marshal shall not be liable to any damages costs or charges whatever for or on account of any escape that shall be effected or made from such prison.

CXXVI. And be it further enacted, That the keeper of the said marshalsea of the city of *Dublin* shall be answerable for the safe custody of all such prisoners as shall be confined in the said marshalsea, and that he shall observe and perform the several and respective rules herein required with respect to prisons wherein debtors are confined.

CXXVII. Provided always, and be it further enacted, That such election or appointment of any person to be keeper of such marshalsea prison of the said city of *Dublin* as aforesaid, shall not extend or be construed to extend to permit or allow any such person to interfere in any degree whatsoever with any of the duties privileges or emoluments annexed to the said office of marshal of the said city, or which heretofore have been exercised or enjoyed by him or his predecessors, save only and except in the care of the said marshalsea prison, and the safe keeping of the said prisoners to be confined therein.

CXXVIII. And be it further enacted, That the prison for debtors in the county of the city of *Dublin* called the sheriff's prison, and the keeper thereof, shall be under the controul of his Majesty's Court of King's Bench in *Dublin*, and shall be subject to all such rules and orders as shall be made by the said court for the government of the said prison, and for the regulation of the rate of rents for the lodging and accommodation of prisoners in the same prison, and of the fees to be taken by the keeper of the said sheriff's prison.

CXXIX. And be it further enacted, That if the amount of rents and fees to be established for the said sheriff's prison shall at any time appear to the grand jury of the county of the city of *Dublin* to fall short of the amount necessary to provide a sufficient salary to the keeper of the said prison, together with sufficient sums for the payment of the hatchmen and other officers and servants necessary for the safe custody of the prisoners, or the discipline of the prison ; then and in every such case it shall be lawful for such grand jury at any presenting term to make presentment of such sum or sums of money as shall be necessary to supply such deficiency ; and it shall also be lawful for such grand jury at any presenting term also to make presentment of any such sum or sums of money as such grand jury shall think requisite for the repairs or other necessary expences of maintaining the said prison : Provided always, that the salary of the keeper of the said sheriff's prison, including all rents and fees allowed to be received by him, shall not in any one year exceed the sum of five hundred pounds over and above the salaries paid by the keeper of the said prison to the hatchmen and other officers and servants in the said prison, to such amount as shall be approved of by the court at each presenting term.

CXXX. And be it further enacted, That the marshal of the city of *Dublin* shall observe and keep the same rules, and shall take the same rates for the lodging and accommodation of prisoners, in such sort and in such manner as the marshal of the four courts shall from time to time be entitled to take, save and except so far as the same may be otherwise from time to time ordered by the Court of King's Bench ; and in case the marshal of the city of *Dublin* for the time being or his deputy, or the keeper of the sheriff's prison, or any other person or persons employed under him, shall take receive or exact any fee gratuity or reward, not au-

thorized by this Act, from any person whomsoever committed as a prisoner to his custody, or shall not observe and perform the rules and rates in every respect which shall from time to time be prescribed as aforesaid with respect to the marshalsea of the city of *Dublin*, or sheriff's prison, then the said marshal of the city of *Dublin* for the time being or his deputy, or the keeper of the sheriff's prison, or other person who shall offend therein, shall suffer and incur the like forfeitures and disabilities as concerning the marshal of the four courts his deputy and all persons employed by him, is herein-before provided respectively.

CXXXI. And in order to render more effectual the several provisions and regulations contained in this Act, be it enacted, That the Court of King's Bench, and all and every judge and judges of assize and general gaol delivery in *Ireland* respectively, are hereby directed and required, from time to time as occasion shall require, to give this Act in charge to the grand juries of the several counties in *Ireland* respectively, or so much thereof as concerns such grand juries respectively, and to require them to comply therewith as the law directs, and to make such presentments as are herein mentioned and directed.

CXXXII. And be it further enacted, That if any of the said grand juries, after having been properly called upon and directed by such court and judges respectively to make such presentments as are required by this Act, shall notwithstanding refuse or neglect or omit to make such presentment or provision respectively before the last day of any assizes or presenting term respectively, then and in every such case the said court and judges respectively are hereby empowered and required to direct that the amount of the sum which ought to have been presented shall be added to the warrant of the treasurer of the county county of a city or county of a town, and shall be raised, levied, apportioned, and assessed after the same manner as the presentments for county charges, on the county at large.

CXXXIII. And be it further enacted, That if any of the said grand juries shall at any time present for any of the said purposes a sum which shall appear to the court to be greater than is proper or reasonable for such purpose, then and in every such case it shall and may be lawful to and for the court or judge receiving such presentment, at the time of so receiving the same, to order that the same shall be reduced to such sum as he or they shall think proper, which shall be done accordingly; and the same shall then be filed, and shall be deemed taken and proceeded on in the same manner in all respects as if the same had been originally so presented.

CXXXIV. And in order that the beneficial purposes of this Act may be more fully and faithfully carried into effect, be it enacted, That the said Court of King's Bench and judges of assize shall, once in every assizes and presenting term respectively, make diligent inquiry, by examination on oath in court, and by such other ways and means as they shall think proper, concerning the several matters for which presentments are or shall be by this or any other Act relating to any of the matters aforesaid directed or authorized to be made at such assizes or term respectively, and finally shall decide, after such mature consideration, as to the exercise of the powers so herein-before given in that respect.

CXXXV. And be it further enacted, That if any action shall be brought or suit commenced against any person or persons, for any thing done in pursuance of this Act, or in relation thereto, every such action or suit shall be brought within six calendar months after the fact done, and the venue thereof shall be laid in the proper county, and not elsewhere; and the defendant or defendants to such action may plead the general issue, and give this Act and the special matter therein contained in evidence on any trial to be had thereupon; and if a verdict shall be given for the defendant in such action, or if the plaintiff or plaintiffs shall become nonsuited, or suffer a discontinuance of his her or their action, or if upon demurrer judgment shall be given against the plaintiff or plaintiffs, the defendant or defendants shall have and recover double costs, the plaintiffs first suggesting on the record, by leave of the court, that the action was

No. XXIII.

7 Geo. IV.

c. 74.

Court of King's Bench and Judges of Assize shall give the Act in charge to Grand Juries.

If Presentments are not made by Grand Juries, Judges shall order the Amount to be added to the Treasurer's Warrant.

Judges may reduce Presentments, if more than necessary.

Court of King's Bench and Judges of Assize shall inquire in to the manner of executing this Act as to Presentments.

Limitations of Actions against Persons prosecuted for Execution of this Act.

No. XXIII.

7 Geo. IV.

c. 74.

Provisions of
1 & 2 G. 4.
c. 77. for the
Abolition of
Prison Fees,
extended to
Prisoners con-
fined for Debt.

Notice of Abolition of Fees to be affixed in all Prisons.

Grand Juries in Dublin shall act at Presenting Terms.

What Parts of this Act shall extend to the Four Courts Marshalsea.

What Part shall extend to Hulks and Penitentiaries.

Act may be amended this Session.
Commencement of Act.

brought for an Act done in pursuance of this Act, or in relation thereto, if the same shall not sufficiently appear by the pleadings.

CXXXVI. And whereas by an Act passed in the session of Parliament holden in the first and second years of the reign of his present Majesty, intituled *An Act to abolish the Payment by Prisoners in Ireland of Gaol Fees and all other Fees relating to the commitment, Continuance, Trial, or Discharge of such Prisoners, and to prevent Abuses by Gaolers Bailiffs and other Officers*, it is amongst other things enacted, that all fees and gratuities whatever, paid or payable by any prisoner in *Ireland* on the entrance, commitment, continuance in custody, or discharge of any such prisoner, to in or from any prison in *Ireland*, shall absolutely cease and determine, and that no fee or gratuity shall be paid or payable by any such prisoner: And whereas doubts have arisen whether the provisions of the said recited Act of Parliament extend to prisoners confined for debt; be it therefore declared and enacted, that the said recited Act, and the several clauses and provisions therein contained, do and shall extend and apply, and shall be construed to extend and apply, to prisoners confined or to be confined for debt in any prison in *Ireland*, in as full and ample a manner as if such prisoners had been specially mentioned therein; and that no fee or gratuity whatever shall be paid or payable by or in respect of any such prisoner (save and except in manner and in the cases specially excepted and provided for in the said recited Act); any law custom or usage to the contrary notwithstanding.

CXXXVII. And be it further enacted, That there shall be hung up in a conspicuous manner in every prison in *Ireland*, a notice in the following words; *videlicet*,

‘NOTICE is hereby given, That all prison fees whatsoever are abolished by Act of Parliament; and any sheriff, under-sheriff, gaoler, turnkey, clerk of the crown, clerk of the peace, or his or their deputy or deputies bridewell-keeper or other officer, taking or demanding any fee gratuity or reward, is thereby subject to a penalty of five pounds; and that the abolition of such fees extends to all persons confined for debt, and to all prisoners required by their sentence to enter into recognizance after completing the period of their imprisonment.’

CXXXVIII. Provided always, and be it further enacted, That all the Acts and duties to be performed by the several grand juries at the assizes under this Act may, in the county of *Dublin* and county of the city of *Dublin*, be performed by the grand juries at the presenting terms duly met and impanelled.

CXXXIX. Provided always, and be it enacted, That this Act shall not extend or be construed to extend to the marshalsea of the four courts of the city of *Dublin*, or to the marshalsea of the city of *Dublin*, or to the sheriff's prison there, save and except such enactments thereof as expressly relate to the said prisons respectively, and such as require a supply of the dresses diet and furniture to the poor prisoners, the expence of which shall be defrayed out of the same funds from which the other expences of the said prisons respectively are provided to be paid, and also save and except such enactments of this present Act as relate to the authority of the Court of King's Bench, and such enactments as regulate the office and authority of the inspectors-general of prisons.

CXL. And be it further enacted, That this Act shall not extend or be construed to extend to any hulks, or to any general penitentiaries for the confinement of persons sentenced to transportation, other than except such parts thereof as relate to the inspection and report of the inspectors-general to be appointed under this Act.

CXLI. And be it further enacted, That this Act may be altered amended or repealed by any Act or Acts to be passed in this present session of Parliament.

CXLII. And be it further enacted, That this present Act shall commence and take effect immediately from and after the first day of July one thousand eight hundred and twenty-six, except in cases where any other time is specified.

SCHEDULES to which this Act refers.

SCHEDULE (A.)

Instructions to be prefixed to the Provision Book of every Gaol.

The grand jury of each county will determine from three descriptions of dietary, detailed in the provision book, which may be most suitable to the circumstances of the county; and such dietary is to be posted up in some conspicuous part of the prison, and used throughout the gaol. The columns under the head of the two other dietary tables will of course remain blank.

A pass book is to be kept with the contractors for each article of provision consumed in the gaol, in which the amount of quantity of each article is to be entered as it is supplied. When a payment is to be made, the provision book and pass books are to be made up, to ascertain that the quantity used of each article, together with the quantity in store, corresponds with the quantity laid in, and with the regulated allowances. The blank columns at the end of the account are intended for any extra supplies, as where turf is used as fuel, or under any other extra circumstances.

When any man is placed on diet below the regulated one, his allowance of each article composing the usual diet will make a deduction in the column in which the amount of that article is stated; this deduction from the regular calculation will be explained by a *N. B.* at the foot of the account for the day; as, for example, "*N. B.* one man on bread and water."

In line of "brought forward," in the abstract account, is to be inserted the total issue from the day of last settlement of the books.

We approve the regulations contained in this book.

Dublin,

18

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Judges of the
Court of King's Bench.

Schedule (A.)—continued.

[illegible]

SCHEDULE (B.)
ANNUAL INSPECTION RETURN OF BEDDING, &c. Gaol.

No. of Class.	Rated Number of Prisoners.	Blankets,		Prison Dresses,		Iron Bedsteads, or equivalent,		Bed Ticksens,	
		In Store.	Deficient.	In Store.	Deficient.	In Store.	Deficient.	In Store.	Deficient.
1	-								
2	-								
3	-								
4	-								
5	-								
6	-								
7	-								
8	-								
9	-								
10	-								
Hospital	-								
Total	-								

I, Inspector General of Prisons, do certify, That I have inspected the Bedding Clothing and Furniture of the different Classes in the Gaol of Blankets, and that the following Articles appear to be deficient, from unavoidable Wear and Tear, since last Inspection; viz. said Gaol to provide such deficient Articles at reasonable prices, and to furnish an Account of the Expence thereof to the Collector of Excise at pursuant to an Act made in the Seventh Year of the Reign of King George the Fourth, intituled [here set forth the Title of this Act.]

Inspector General of Prisons.

SCHEDULE (C.)

ANNUAL RETURN of ARTICLES supplied for Gaols, as ordered by the Inspector General of Prisons.

Description of Articles.	From whom purchased.	No. of Articles.	Amount of each.	Total Amount.
Blankets	-	-	-	£ s. d.
Bed Tickens	-	-	-	
Prison Dresses	-	-	-	
Bedsteads	-	-	-	
Cots	-	-	-	
Total Amount			- - -	£

A. B. Local Inspector of the Gaol at _____ came before me this Day, and made Oath, That the Articles above stated are a true Account of Articles ordered by the Inspector General of Prisons, for the Use of the said Gaol, pursuant to an Act made in the Seventh Year of the Reign of King George the Fourth, intituled [*here set forth the Title of this Act*], and that the same were in on the best practicable Terms, and are charged at Cost Prices; and that no Profit is made on the Purchase thereof by him or by any other Person for his Use.

Day of _____

Sworn before me, this _____

Collector of Excise.

SCHEDULE

FORM of Annual Return

1. Number of Prisoners the Prison is capable of containing in separate Sleeping Cells.	2. Number of Prisoners the Prison is capable of containing where more than one Prisoner sleeps in one Cell.	3. Total Number of Prisoners		4. Number of Debtors.		5. Number of Misde-meanors.		6. Number of Felons.		7. Number of Prisoners committed in the Course of the Year.	8. Number of Tried Prisoners		9. Number of Untried Prisoners		10. Number of Prisoners above 17 Years of Age.	
		Mich* 18 .	Mich* 18 .	Male.	Female.	Male.	Female.	Male.	Female.		Male.	Female.	Male.	Female.	Male.	Female.

Note.—The Total of the cond Division of the of Columns 10 and 11.

19.—Whether Common Gaol, House of Correction, or Bridewell?

20.—Under whose Jurisdiction and Superintendence?

21.—Number of Officers, and how appointed?

22.—Number of Classes, Wards, or Divisions, Work Rooms, Day Rooms, and Airing Yards, and whether the same can be extended or increased?

23.—Dietary or other Allowance; and Weekly Cost per Head?

24.—Allowance of Clothing and Bedding, and Cost per Head?

25.—Description of Employment, and Hard Labour?

26.—Hours of Labour and of Exercise?

27.—Amount of Earnings how applied, and in what Proportion to each Class of Prisoners, to the Officers of the Prison, and to the Fund applicable to the Maintenance of the said Prison?

28.—Whether the Classification required by this Act has been observed? If not, For what Reasons; and what Measures have been taken to remedy this Defect?

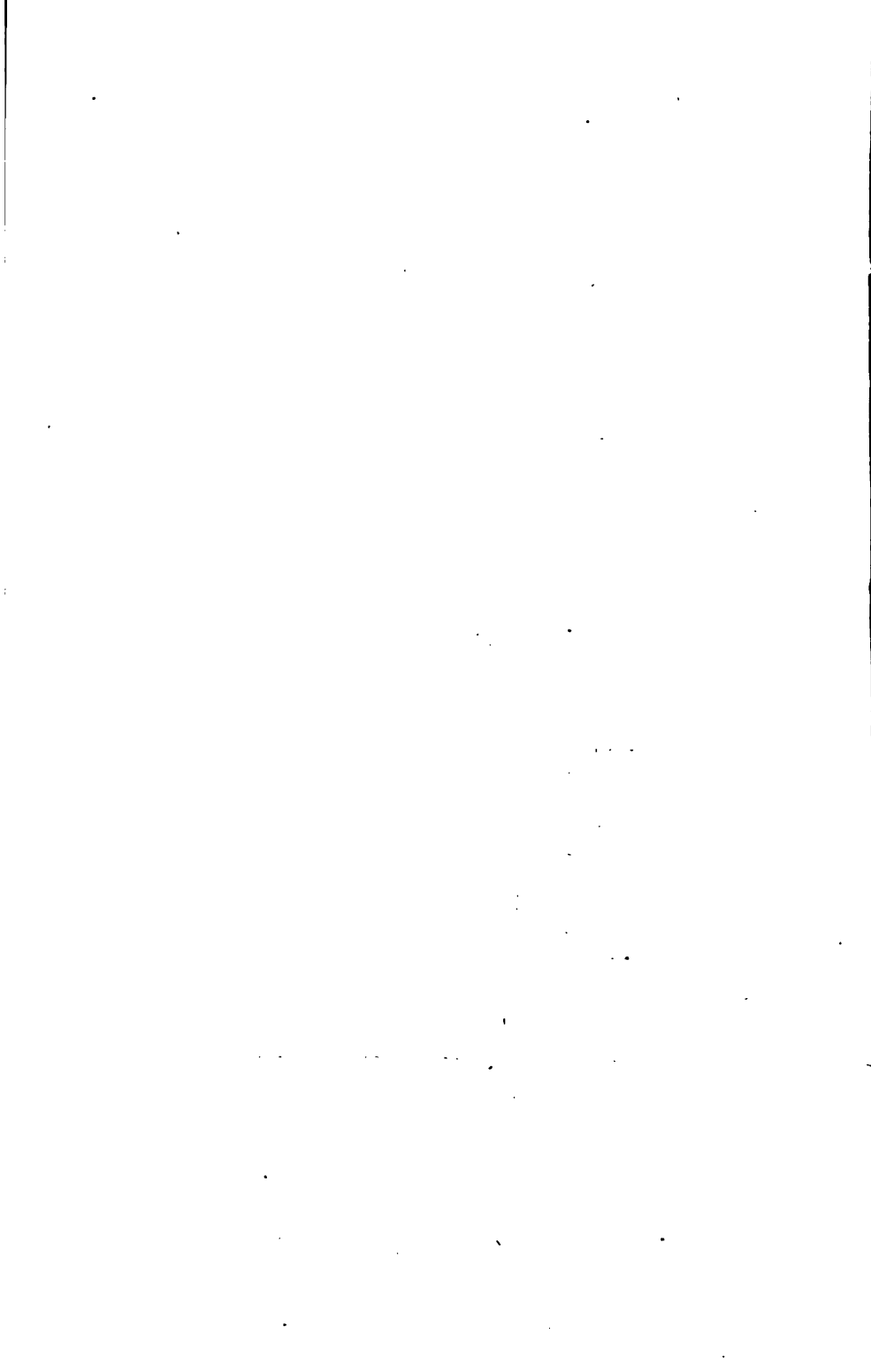
29.—What Duties are performed by the Chaplain, what Provision made for Instruction, and whether Prisoners are supplied with Bibles and other Books?

30.—Attendance of the Surgeon, and whether separate Buildings or Apartments are provided for the Sick?

31.—Reasons for Non-employment of Prisoners, with reference to Column 15.

32.—Reasons for Punishments, by Gaoler?

33.—{ Is there any Insane Prisoner in Confinement?
State his or her Name, Age, and for what Offence committed?
How long has he or she been in Confinement?
How long has he or she been Insane?



PART VI.

CLASS XXII.

Highways.

[No. I.] 13 George III. c. 78.—An Act to explain, amend, and reduce into one Act of Parliament the Statutes now in being for the Amendment and Preservation of the Public Highways within that Part of Great Britain called England, and for other Purposes.

‘ WHEREAS the laws now in being for the amendment and preservation of the highways of that part of Great Britain called England require some explanation and amendment; May it therefore please your Majesty that it may be enacted; and be it enacted by the King’s most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That from henceforth upon the twenty-second day of September in every year, unless that day shall be Sunday and then on the day following, the constables headboroughs tythingmen churchwardens surveyor of the highways and householders being assessed to any parochial or public rate of every parish township or place shall assemble together at the church or chapel of such parish township or place, or if there shall be no church or chapel then at the usual place of public meetings for such parish township or place at the hour of eleven in the forenoon: And the major part of them so assembled shall make a list of the names of at least ten persons living within such respective parishes townships or places who each of them have an estate in lands tenements or hereditaments lying within such respective parish township or place, in their own right or in the right of their wives, of the value of ten pounds by the year; or a personal estate of the value of one hundred pounds; or are occupiers or tenants of houses lands tenements or hereditaments of the yearly value of thirty pounds: And if there shall not be ten persons having such qualifications as aforesaid then they shall insert in such list the names of so many of such persons as are so qualified as above required, together with the names of so many of the most sufficient and able inhabitants of such parish township or place not so qualified as shall make up the number ten, if so many can be found; if not, so many as shall be there resident to serve the office of surveyor of the highways: and the constable headborough and tythingman of such parish township or place shall within three days after such meeting transmit a duplicate of such list to one of the justices of the peace within the limit of the county riding division hundred city corporation precinct or liberty where such parish township or place shall lie, living in or near the same; and shall also return and deliver the original list made and agreed upon at such meeting to the justices of the peace at their special sessions to be held for the highways within that limit in the week next after the Michaelmas general quarter sessions of the peace (1.) in every year; and shall also within three days after making the said list give personal notices to or cause notices in writing to be left at the places of abode of the several persons contained in such list, informing them of their being so named, to the intent that they may severally appear before the justices at

13 George III.
c. 78.

On Sept. 22, yearly, a List is to be made of at least Ten Persons, by Constables, &c.

Qualification of Surveyors.

Duplicate List shall be transmitted to one of the Justices, and original List to the Special Sessions, by the Constable, &c. Notice.

(1.) If the Justices make no Appointment at the Sessions here directed, they may do afterwards; and may be compelled thereto by Mandamus. R. v. Justices of Denbighshire, 4 E. 1st

No. I.
13 Geo. III.
c. 78.

Justices are to give Ten Days' Notice of holding Special Sessions, &c.

and may appoint from the Lists such Number of Surveyors as they shall judge fit, &c.

The Surveyor shall hold his Office for one Year.

Justices to give a Charge for Performance of Duty.

Persons refusing to serve forfeit 5*l*. &c.

Not to be again appointed for the same Place within three Years after.

If no List made, or Person appointed refuses to serve, another may be appointed, and Salary fixed, &c.

the said special sessions to accept such office if they shall be appointed thereto, or to shew cause if they have any against their being appointed: and the said justices are hereby authorised and required to hold such special sessions at such convenient place or places within their respective limits as they in their discretion shall judge proper; and to give notice of the time and place where they intend to hold the same to the constables headboroughs or tythingmen of every such parish township or place at least ten days before the holding of the said session; and the said justices then and there from the said lists, according to their discretion and the largeness of the parish township or place respectively, by warrant under their hands and seals shall appoint one two or more of such persons as aforesaid if he or they shall in the opinion of such justices be qualified for the office of surveyor, (2.) if not one two or more of the other substantial inhabitants or occupiers of lands tenements woods tithes or hereditaments within such parish township or place, living within three miles thereof and within the same county, fit and proper to serve the office of surveyor of the highways for such parish township or place if any such can be found; which appointment shall by the constables headboroughs or tythingmen aforesaid be notified to every person so appointed by the said justices within three days after such appointment by serving him with the said warrant or by leaving the same or a true copy thereof at his house or usual place of abode; and every person so appointed if he accepts the office shall be surveyor of the highways for the said parish township or place for the year ensuing and shall take upon him and duly execute the office aforesaid; and the said justices shall then and there give such of the said surveyors as shall personally appear before them a charge for the better performance of their duty according to the directions of this Act: and if any of the said persons so appointed whose names were contained in such list and who were served with the said notice shall refuse or neglect to appear at the said special sessions and accept the said office if appointed thereto in manner aforesaid, or shall not within six days after being served with such warrant of appointment signify his acceptance thereof either in person or by writing to one of the said justices, he shall forfeit the sum of five pounds; and in case any person so appointed by the said justices whose name was not contained in such list, shall refuse or neglect to accept the said office, or shall not within six days after being served with such appointment shew to one of the justices signing such appointment sufficient cause why he should not serve such office, he shall forfeit the sum of fifty shillings: Provided that no person who hath been appointed and served the office of surveyor for one year shall be liable to be appointed surveyor for the same parish township or place within three years from the time of such first appointment and service, unless he shall consent thereto; but if no such list shall be made and returned, or if the said justices shall make such appointment as aforesaid, and the person or persons so appointed shall refuse to serve the said office, the said justices or any two of them shall and may and are hereby required at the said special sessions or at some subsequent special sessions to be held within one month after to nominate and appoint some other person or persons to be surveyor of such parish township or place whom they shall judge proper to execute that office, and shall and may fix such salary to be paid to such surveyor to be appointed as herein last before mentioned out of the said forfeitures and all other forfeitures fines penalties assessments and compositions to be paid levied and raised under the authority of this Act within such parish township or place respectively as such justices shall think fit, not exceeding one eighth part of what shall have been raised by an assessment of six pence in the pound for the use of the highways within such parish township or place where any such assessment shall have been raised, and observing the same restriction as near as they can from the best information they shall be able to get of the probable amount of such an assess-

(3.) The Lists are only for the Purpose of Discretion, appoint other Persons not named including the Magistrates, and they may, at the R. v. Baldwin, 7 T. R. 169.

ment where none hath been already made; and the said justices shall and may if they think fit require the constables headboroughs tythingmen and surveyor of every such parish township and place or any of them to return to them, at such time and place as they shall appoint, an account in writing of the sum which such assessment of six pence in the pound hath raised or will in his or their opinion raise within such parish township or place: and if the constables headboroughs tythingmen churchwardens surveyors of the highways and such householders as aforesaid of any parish township or place shall neglect or refuse to make such list as aforesaid; or if the constable headborough or tythingman of any parish township or place shall not return the said list of names when made and such duplicate thereof as aforesaid and give such notice or notices and serve such warrant or warrants as in this Act is directed; or if the said constable headborough tythingman and surveyor or any of them shall neglect to return such account of the amount of such assessment as aforesaid when so required as aforesaid, every constable headborough tythingman churchwarden or surveyor so neglecting or refusing in any of the said cases shall for every such default respectively forfeit the sum of forty shillings.

II. And be it further enacted, That in all cases where the said justices upon neglect or refusal of the person so nominated surveyor as aforesaid to accept the said office shall appoint any other person for such surveyor with a salary as aforesaid, the said justices shall and are hereby required to appoint one substantial inhabitant of such parish township or place for assistant to such surveyor in the several matters and for the several purposes hereafter mentioned, until the next annual appointment of surveyors according to the directions of this Act; and if the person so appointed assistant shall upon notice of such appointment refuse to accept that office, he shall forfeit the sum of fifty shillings: and in that case it shall and may be lawful for such justices to appoint any other substantial inhabitant of such parish township or place for assistant to such surveyor in manner and for the time aforesaid; and if such second appointed assistant shall decline or refuse to accept the said office, he shall in like manner forfeit the sum of fifty shillings; and the said justices shall and may appoint any other person inhabiting in such parish township or place assistant to such surveyor, who shall be intitled to the said forfeitures herein last before mentioned, and also to some further allowance by way of salary (to be paid as the surveyor's salary is hereby directed to be paid) if the said justices shall think any such salary necessary and shall order the same which they are hereby authorised to do: Provided that no person so appointed assistant for one year shall be liable to be appointed assistant for the same parish township or place within three years next following such first appointment without his consent.

III. And be it further enacted, That the surveyor of every parish township and place who shall not reside therein but shall be appointed with such salary as aforesaid shall, if required by the churchwarden overseer of the poor or any principal inhabitant of the parish township or place for which he shall be so appointed surveyor, at the time of his appointment or within fourteen days after give a bond upon paper without stamp thereupon to some proper person within such parish township or place to be nominated by the said justices with sufficient surety to account for the money which shall come to his hands as surveyor according to the directions of this Act; which bond shall be good and effectual in law.

IV. And be it further enacted, That the assistant so to be nominated and appointed shall and is hereby required to the best of his skill and judgment to assist the said surveyor whenever requested by him in calling in and attending the performance of the statute duty; in collecting the compositions fines penalties and forfeitures; in making and collecting the assessments; in making out and serving the notices authorised by this Act; and in such other matters and things as shall be reasonably required of him by the surveyor in the execution of his office as surveyor pursuant to this Act: and the said assistant shall jointly and truly account with and pay to the said surveyor

No. I.

13 Geo. III.
c. 78.

Constables, &c.
to return an
Account which
the Assessment
of 6d. per
Pound will
raise.

Where the Jus-
tices, upon such
Refusal, shall
appoint another
Person, they
are to appoint
one substantial
Inhabitant for
his Assistant,
&c.

Bond to be
given by the
Surveyor.

Duty of As-
sistant Sur-
veyor.

No. I.

13 Geo. III.
c. 78.Forfeitures for
Neglect.

Surveyors to
send Orders up-
on the Assist-
ant for Pay-
ment, &c.

If two Parts
agree in the
Choice of Sur-
veyor and Sa-
lary, Justices
may appoint,
&c.

No Tree to
stand within 15
Feet of the
Centre of the
Highway.

Hedges, &c.
adjoining, by
whom and in
what manner
to be cut.

or to his order from time to time according to the directions of this Act, all the money which shall come to his hands as assistant by the means aforesaid; and in default thereof he shall forfeit double the value of the money by him so received and not so paid and accounted for; and if the said assistant shall wilfully neglect or make default in the performance of any of the duty required from him by this Act, he shall forfeit for every such offence any sum not exceeding five pounds nor less than forty shillings, at the discretion of the justice or justices of the limit within which such assistant shall be appointed: and the said surveyor shall and is hereby required to send orders in writing upon the said assistant for the payment of all sums due to any person or persons for work or materials by virtue of this Act which amount to forty shillings or upwards; and the said surveyor shall not be responsible for any sum or sums of money which shall be received by the said assistant and shall not be actually paid to such surveyor or to his order as aforesaid.

V. Provided always and be it further enacted, That if two parts out of three of those so to be assembled in any such parish township or place for the nomination of surveyors as aforesaid shall agree in the choice of any particular person of skill and experience to serve the said office of surveyor for such parish township or place and in the settling of a certain salary for his trouble therein, and shall return the name of such person together with the list herein-before directed to the justices of the peace at their said sessions to be held in the week next after the *Michaelmas* quarter sessions; that then and in every such case it shall and may be lawful for the said justices if they shall think proper to appoint such person to be surveyor for such parish township or place and to allow him the salary mentioned in such agreement, which shall be raised and paid in the same manner as the salary herein-before mentioned is directed to be raised and paid; and in case any surveyor to be appointed under the authority of this Act shall die or become incapable of executing that office before such next special sessions for appointing surveyors the said justices or any two of them shall and may at some special sessions nominate and appoint such person or persons as they shall think proper to execute the said office until such next special sessions for appointing surveyors as aforesaid; and if such deceased surveyor had a salary they may allow the same salary to his successor in proportion to the time he shall serve the said office; and if the said justices of the peace at their special sessions or at any time afterwards pursuant to the powers of this Act shall appoint more than one person for surveyor of any parish township or place, all and every person or persons so appointed shall be comprehended under the word *Surveyor* in every part of this Act.

VI. And be it further enacted, That no tree bush or shrub shall be permitted to stand or grow in any highways within the distance of fifteen feet from the centre thereof (except for ornament or shelter to the house building or court-yard of the owner thereof) or hereafter to be planted within the distance aforesaid; but the same shall respectively be cut down grubbed up and carried away by the owner or occupier of the land or soil where the same doth or shall stand or grow within ten days after notice to him her or them or his her or their steward or agent given by the said surveyors or any of them on pain of forfeiting for every neglect the sum of ten shillings.

VII. And be it further enacted, That the possessors of the land next adjoining to every highway shall cut prune and plash their hedges, and also cut down or prune and lop the trees growing in or near such hedges or other fences (except those trees planted for ornament or shelter as aforesaid) in such manner that the highways shall not be prejudiced by the shade thereof respectively and that the sun and wind may not be excluded from such highway to the damage thereof; and that if such possessor shall not within ten days after notice given by the surveyor for that purpose cut prune and plash such hedges and cut down or prune and lop such trees in manner aforesaid it shall and may be lawful for the surveyor and he is hereby required to make complaint thereof to some justice of the peace of the limit where such highway shall be, who shall summon

the possessor of the said lands to appear before the justices at some special sessions for that limit to answer to the said complaint; and if it shall appear to the justices at such special sessions that such possessor had not complied with the requisites of this Act, it shall and may be lawful for the said justices upon hearing the surveyor and possessor of such land or his agent (or in default of his appearance upon having due proof of the service of such summons) and considering the circumstances of the case to order such hedges to be cut plashed and pruned and such trees to be cut down or pruned in such manner as may best answer the purposes aforesaid; and if the possessor of such lands shall not obey such order within ten days after it shall have been made and he shall have had due notice thereof he shall forfeit the sum of two shillings for every twenty-four feet in length of such hedge which shall be so neglected to be cut and plashed, and the sum of two shillings for every tree which shall be so neglected to be cut down or pruned and lopped; and the surveyor in case of such default made by the possessor shall and is hereby required to cut prune and plash such hedges and to cut down or prune and lop such trees in the manner directed by such order; and such possessor shall be charged with and pay over and above the said penalties the charges and expences of doing the same; or in default thereof such charges and expences shall be levied together with the said forfeitures upon his or her goods and chattels by warrant from a justice of peace in such manner as is authorised for forfeitures incurred by virtue of this Act.

VIII. And be it further enacted, That ditches drains or watercourses of a sufficient depth and breadth for the keeping all highways dry and conveying the water from the same shall be made scoured cleansed and kept open and sufficient trunks tunnels plats or bridges shall be made and laid where any cartways horseways or footways lead out of the said highways into the lands or grounds adjoining thereto by the occupier or occupiers of such lands or grounds; and every person or persons who shall occupy any lands or grounds adjoining to or lying near such highway through which the water hath used to pass from the said highway shall and is hereby required from time to time as often as occasion shall be to open cleanse and scour the ditches watercourses or drains for such water to pass without obstruction; and that every person making default in any of the matters or things aforesaid after ten days' notice to him her or them given of the same by the said surveyor shall for every such offence forfeit the sum of ten shillings.

IX. And be it further enacted, That if any person or persons shall lay in any highway any stone timber straw dung or other matter, or in making scouring or cleansing the ditches or watercourses shall permit the soil or earth dug out of such ditches drains or watercourses to remain in such highway in such manner as to obstruct or prejudice the same for the space of five days after the notice thereof given by the surveyor of the highways; every person or persons offending in any of the said cases shall for every such offence forfeit and pay the sum of ten shillings.

X. And be it further enacted, That if any stone or timber or any hay straw stubble or other matter for the making of manure or on any other pretence whatsoever not tolerated by this Act shall be laid in any highway within the distance of fifteen feet from the centre thereof, and shall not within five days after notice given by the surveyor or some person aggrieved thereby be removed, it shall and may be lawful for the owner or possessor of the lands adjacent or any other person or persons whomsoever by order from some justice of peace to clear the said highways by removing the said stone timber hay straw dung or other matter and to have take and dispose of the same to his and their own use.

XI. 'And for preventing obstructions in the said highways,' Be it enacted, That if any person shall wilfully set place or leave any waggon cart or other carriage or any plough or instrument of husbandry in any of the said highways (except only with respect to such waggon cart or carriage during such reasonable time as the same shall be loading or unloading and standing as near the side of such highway as conveniently may be) so as to interrupt or hinder the free passage of any other car-

No. I.

13 Geo. III.
c. 78.Occupiers shall
make sufficient
Ditches, &c.Persons laying
Stone, &c. in
any Highway,
&c. for every
Offence forfeit
10s.Stone, &c.
laid within 15
Feet of the
Centre of the
Highway, and
not removed,
&c.Obstruction in
the Highways.

No. 1.

13 Geo. III.
c. 78.Surveyors'
Duty on taking
a View of High-
ways, &c.

riage or of his Majesty's subjects; every person so offending shall forfeit the sum of ten shillings for every such offence.

XII. And be it further enacted, That the surveyors of the highways to be appointed by virtue of this Act shall at all such times and seasons as they shall judge proper view all the common highways trunks tunnels plats hedges ditches banks bridges causeways and pavements within the parish township or place for which they shall be appointed surveyors; and in case they shall observe any nuisances encroachments obstructions or annoyances made committed or permitted in upon or to the prejudice of them or any of them contrary to the directions of this Act, they shall from time to time as soon as conveniently may be give or cause to be given to any person or persons doing committing or permitting the same personal notice or notice in writing to be left at his her or their usual place or places of abode, specifying the particulars wherein such nuisances defaults obstructions or annoyances consist; and if such nuisances obstructions or annoyances shall not be removed and the ditches drains gutters and watercourses aforesaid effectually made scoured cleansed and opened and such trunks tunnels plats and bridges made and laid and such hedges properly cut and pruned within twenty days after such notice of the same respectively given as aforesaid, then the said surveyors shall be and they are hereby fully authorised and empowered forthwith to remove such nuisances obstructions or annoyances and open cleanse and scour such ditches gutters and watercourses and make or amend such trunks tunnels plats or bridges and cut and prune such hedges for the benefit and improvement of the said highways to the best of their skill and judgment and according to the true intent and meaning of this Act; and the person or persons so neglecting to make or open and cleanse such ditches gutters or watercourses or to cut or prune such hedges during the time aforesaid after such notice given shall forfeit for every foot in length which shall be so neglected the sum of one penny; and the said surveyors shall be reimbursed what charges and expences they shall be at in removing such nuisances obstructions or annoyances and making or opening cleansing and scouring such ditches gutters and watercourses and in making or amending such trunks tunnels plats or bridges and in cutting and pruning such hedges respectively by the person or persons who ought to have done the same over and above the said forfeiture; and in case such person or persons shall upon demand refuse or neglect to pay the said surveyor his charges and expences occasioned thereby respectively and also the said forfeiture of one penny per foot, then the said surveyor shall apply to any justice of the peace; and upon making oath before him of notice being given to the defaulter in manner aforesaid and of the said work being done by such surveyor and of the expences attending the same, the said surveyor shall be repaid by such person or persons all such his said charges as shall be allowed to be reasonable by the said justice; or in default of payment thereof on demand the same shall be levied in such manner as the penalties and forfeitures hereby inflicted are directed to be levied.

Those of cut-
ting Hedges,
&c. in the
Highways.

XIII. Provided nevertheless, That no person or persons shall be compelled nor any surveyor permitted by virtue of this Act to cut or prune any hedge at any other time than between the last day of September and the last day of March; and that nothing herein contained shall extend or be construed to oblige any person or persons to fell any timber trees growing in hedges at any time whatsoever except where the highways shall be ordered to be enlarged as hereinafter mentioned, or to cut down or grub up any oak trees growing within such highway or in such hedges except in the months of April May or June, or any ash elm or other trees in any other months than in the months of December January February or March.

Where old
Ditches, &c.
are insufficient,
new ones may
be made.

XIV. And be it further enacted, That where the ditches gutters or watercourses which have been usually made or which are herein before directed to be made cleansed and kept open shall not be sufficient to carry off the water which shall lie upon and annoy the highways; that then and in every such case it shall and may be lawful for the said surveyor by the order of any one or more of the said justices to make new

ditches and drains in and through the said lands and grounds adjoining or lying near to such highways or in and through any other lands or grounds if it shall be necessary for the more easy and effectually carrying off such water from the said highways, and also to keep such ditches gutters or watercourses secured cleansed and opened; and the said surveyors and their workmen are hereby authorised to go upon the said lands for the purposes aforesaid: Provided that the said surveyors make proper trunks tunnels plats bridges or arches over such ditches gutters or watercourses where the same shall be necessary for the convenient use and enjoyment of the lands or grounds through which the same shall be made and from time to time keep the same in repair; and do also make satisfaction to the owner or occupier of such lands which are not waste or common for the damages which he she or they shall sustain thereby: to be settled and paid in such manner as the damages for getting materials in several or inclosed lands or grounds are hereafter directed to be settled and paid.

XV. And be it further enacted, That the said surveyors of the highways shall and they are hereby required to make support and maintain or cause to be made supported and maintained every publick cartway leading to any market town twenty feet wide at the least; and every publick horseway or driftway eight feet wide at the least, if the ground between the fences inclosing the same will admit thereof.

Cartways to
Market Towns,
and Homeways.

XVI. (3.) Provided always and be it further enacted, That where it shall appear upon the view of any two or more of the said justices of the peace that the ground or soil of any (4.) highway between the fences thereof is not of sufficient breadth and may be conveniently widened and enlarged, or that the same cannot be conveniently enlarged and made commodious for travellers without diverting and turning the same; such justices shall and they are hereby empowered within their respective jurisdictions to order such highways respectively to be widened and enlarged or diverted and turned in such manner as they shall think fit, so that the said highways when enlarged and diverted shall not exceed thirty feet in breadth; and that neither of the said powers do extend to pull down any house or building or to take away the ground of any garden park paddock court or yard; and for the satisfaction of the person or persons bodies politick or corporate who are seized or possessed of or interested in their own right or in trust for any other person or persons in the said ground that shall be laid into the said highways respectively so to be enlarged or through which such highway so to be diverted and turned shall go, the said surveyor under the direction and with the approbation of the said justices shall and is hereby empowered to make an agreement with him her or them for the recompence to be made for such ground and for the making such new ditches and fences as shall be necessary, according and in proportion to their several and respective interests therein, and also with any other person or persons bodies politick or corporate that may be injured by the enlarging altering or diverting such highways respectively for the satisfaction to be made to him her or them respectively as aforesaid: and if the said surveyor under the direction and with the approbation of the said justices cannot agree with the said person or persons bodies politick or corporate, or if he she or they cannot be found or shall refuse to treat or take such recompence or satisfaction as shall be offered to them respectively by such surveyor; then the justices of the peace at any general quarter sessions to be holden for the limit wherein such ground shall lie, upon certificate in writing signed by the justices making such view as aforesaid of their proceedings in the premises, and upon proof of fourteen days' notice in writing having been given by the

Justices may
order narrow
Roads to be
widened, &c.
See Coop. 648.

(3.) The Forms of the Act must be followed as far as may be, otherwise the Proceeding is void, and the Invalidity thereof may be taken advantage of in a collateral proceeding; therefore when the Order omitted to specify the Breadth of the new Road, the old Road was held to subsist:

Davidson v. Gill, 1 East. 64.

(4.) This extends to Highways repaired Rations Tenure, and the Surveyor is indictable for Disobedience of an Order to widen them: Rex v. Balme, Coop. 648.

No. 11.

13 Geo. III.
c. 78.

No. I.

13 Geo. III.

c. 78.

surveyor of such parish township or place, to the owner occupier or other person or persons bodies politick or corporate interested in such ground, or to his her or their guardian trustee clerk or agent, signifying an intension to apply to such quarter sessions for the purpose of taking such ground, shall impanel a jury of twelve disinterested men out of the persons returned to serve as jurymen at such quarter sessions; and the said jury shall upon their oaths to the best of their judgment assess the damages to be given and recompence to be made to the owners and others interested as aforesaid in the said ground for their respective interests as they shall think reasonable, not exceeding forty years' purchase, for the clear yearly value of the ground so laid out, and likewise such recompence as they shall think reasonable for the making of new ditches and fences on the side or sides of the said highways that shall be so enlarged or diverted, and also satisfaction to any person or persons bodies politick or corporate that may be otherwise injured by the enlarging or diverting the said highways respectively: and upon payment or tender of the money so to be awarded and assessed to the person or persons bodies politick or corporate intitled to receive the same, or leaving it in the hands of the clerk of the peace of such limit, in case such person or persons bodies politick or corporate cannot be found or shall refuse to accept the same, for the use of the owner of or others interested in the said ground, the interest of the said person or persons bodies politick or corporate in the said ground shall be for ever divested out of them, and the said ground after such agreement or verdict as aforesaid shall be esteemed and taken to be a publick highway to all intents and purposes whatsoever; saving nevertheless to the owner or owners of such ground all mines minerals and fossils lying under the same which can or may be got without breaking the surface of the said highway; and also all timber and wood growing upon such ground to be fallen and taken by such owner or owners within one month after such order shall have been made, or in default thereof to be fallen by the said surveyor or surveyors within the respective months aforesaid and laid upon the land adjoining for the benefit of the said owner or owners: and where there shall not appear sufficient money in the hands of the surveyor or surveyors for the purposes aforesaid, then the said two justices in case of agreement or the said court of quarter sessions after such verdict as aforesaid shall order an equal assessment to be made levied and collected upon all and every the occupiers of lands tenements woods tithes and hereditaments in the respective parishes townships or places where such highways shall lie, and direct the money to be paid to the person or persons bodies politick or corporate so interested in such manner as the said justices or court of quarter sessions respectively shall direct and appoint: and the money thereby raised shall be employed and accounted for according to the order and direction of the said justices or court of quarter sessions respectively for and towards the purchasing the land to enlarge or divert the said highways and for the making the said ditches and fences, and also satisfaction for the damages sustained thereby; and the said assessment if not paid within ten days after demand shall by order of the said justices or court of quarter sessions respectively be levied by the said surveyor in the manner herein-after mentioned: Provided, That no such assessment to be made in any one year shall exceed the rate of six pence in the pound of the yearly value of the lands tenements woods tithes and hereditaments so assessed.

Old Highway
and Soil may be
sold by the Sur-
veyor,

subject, &c.

XVII. And be it further enacted, That when any such new highways shall be made as aforesaid the old highway shall be stopped up and the land and soil thereof shall be sold (5.) by the said surveyor with the approbation of the said justices to some person or persons whose lands adjoin thereto if he she or they shall be willing to purchase the same, if not to some other person or persons for the full value thereof: but if such old road shall lead to any lands house or place which cannot in the opinion

(5.) It seems to have been overlooked, that, of the Soil is vested in private Individuals, and subject to the Right of Passage, the Ownership may be a valuable Property.

of such justices respectively be accommodated with a convenient way and passage from such new highway which they are hereby authorised to order and lay out if they find it necessary; then and in such case the said old highway shall only be sold subject to the right of way and passage to such lands house or place respectively according to the ancient usage in that respect; and the money arising from such sale in either of the said cases shall be applied towards the purchase of the land where such new highway shall be made: and upon payment or tender of the money so to be agreed for as aforesaid and upon a certificate being signed by the said two justices or by the chairman of the said court of quarter sessions in case the same shall be determined there, describing the lands so sold and expressing the sum so agreed for and directing to whom the same shall be paid; and upon the purchaser's taking a receipt for such purchase-money from the person entitled to receive the same, by an indorsement on the back of such certificate, the soil of such old highway shall become vested in such purchaser and his heirs; but all mines minerals and fossils lying under the same shall continue to be the property of the person or persons who would from time to time have been entitled to the same if such old highway had continued there.

XVIII. And be it further enacted, That in case such jury shall give in and deliver a verdict for more monies as a recompence for the right interest or property of any person or persons bodies politick or corporate in such lands or grounds, or for the making such fence or for such damage or injury to be sustained by him her or them respectively as aforesaid, than what shall have been proposed and offered by the said surveyor before such application to the said court of quarter sessions as aforesaid; that then and in such case the costs and expences attending the said several proceedings shall be borne and paid by the surveyor of the said highway out of the monies in his or their hands, or to be assessed and levied by virtue and under the powers of this Act; but if such jury shall give and deliver a verdict for no more or for less monies than shall have been so offered and proposed by the said surveyor before such application to the said court of quarter sessions; that then the said costs and expences shall be borne and paid by the person or persons bodies politick or corporate who shall have refused to accept the recompence and satisfaction so offered to him her or them as aforesaid.

XIX. (6.) [And be it further enacted, That when it shall appear upon the view of any two or more of the said justices of the peace that any publick highway not in the situation herein-before described or publick bridleway or footway may be diverted (7.) so as to make the same nearer or more commodious to the publick, and the owner or owners of the lands and grounds through which such new highway bridleway or footway is proposed to be made shall consent thereto by writing under his or their hand and seal or hands and seals, it shall and may be lawful by order of such justices at some special sessions to divert and turn and to stop up such footway and to divert turn and stop up and inclose sell and dispose of such old highway or bridleway and to purchase the ground and soil for such new highway bridleway or footway by such ways and means and subject to such exceptions and conditions in all respects as herein-before mentioned with regard to highways to be widened or diverted; and where any such highway bridleway or footway herein last before described shall be so ordered to be stopped up or inclosed, and such new highway bridleway or footway set out and appropriated in lieu thereof as aforesaid, it shall and may be lawful for any person or persons injured or aggrieved by any such order or proceeding or by the inclosure of any road or highway by virtue of any inquisition taken upon any writ of *ad quod*

No. I.

18 Geo. III.
c. 78.

Costs of Proceedings by whom payable.

Highways, &c. may be turned by the Justices at their special Sessions, with Consent of the Owners, if, &c.

Appeal.

(6.) The Part of this Clause included in Brackets is repealed, and other Provisions substituted in lieu thereof, by Stat. 55 Geo. III. c. 68. post. No. 19.

(7.) A Road cannot be stopped up by reason of widening another, by throwing to it several

Slips of Land; but a new Line of Road must actually be made, and the old Highway continue, notwithstanding the Order for Diversion has been confirmed at the Sessions; the Justices in such Case having no Jurisdiction: *Welch v. Nash*, 8 E. 394.

No. I.
13 Geo. III.
c. 78.

Concerning those which have been turned above Twelve Months, and no Prosecution commenced.

In what Cases, &c. the old Highways, or the Lands lying between the Fences inclosing the same, shall be disposed of.

damnum (8.) to make his or their complaint thereof by appeal to the justices of the peace at the next quarter sessions which shall be holden within the limit where the same shall lie, after such order made or proceeding had as aforesaid, upon giving ten days' notice in writing of such appeal to the surveyor and party interested in such inclosure if there shall be sufficient time for that purpose; if not, such appeal may be made upon the like notice to the next subsequent quarter sessions of the peace, which courts of quarter sessions are hereby respectively authorised and empowered to hear and finally determine such appeal; and if no such appeal be made, or being made, such order and proceedings shall be confirmed by the said court, the said inclosures may be made and the said ways stopped, and the proceedings thereupon shall be binding and conclusive to all persons whomsoever; and the new highway bridleway or footway so to be appropriated and set out shall be and for ever after continue a publick highway bridleway or footway to all intents and purposes whatsoever; but no inclosures of such old highways or bridleway or stoppage of such footway shall be made until such new highways bridleway or footway shall be completed and put into good condition and repair and so certified by two justices of the peace upon view thereof; (9.) which certificate shall be returned to the clerk of the peace and by him enrolled amongst the records of the said court of quarter sessions; but from and after such certificate such old highways bridleway or footway shall and may be stopped up and the soil of such old highways or bridleway sold in the manner and subject to the reservations and restrictions herein-before mentioned with respect to highways to be enlarged or diverted by virtue of this Act:] And where any highway bridleway or footway hath been diverted and turned above twelve months, either from necessity where the same have been destroyed by floods or slips of the ground on which they were made, or from other causes and motives, if new highways bridleways or footways have been made in lieu thereof nearer or more commodious to the public and the same have been acquiesced in and no suit or prosecution hath been commenced for the diverting or turning the same, every new highway bridleway or footway set out and used in the place of that so diverted and turned shall from henceforth (10.) be the publick highway bridleway or footway to all intents and purposes whatsoever; and all persons liable to the repair of any such old highways bridleway or footway so diverted and turned or to be diverted and turned as aforesaid, shall in the same manner be and continue liable to the repair of such new highways bridleway or footway, except where any agreement shall have been made relative to such repairs between the parties interested therein which hath laid the burthen thereof or of any part thereof upon any other person or persons in which case the same shall be observed.

XX. Provided nevertheless and be it further enacted, That no common land lying between the fences of any old highway to be stopped up or inclosed by virtue of this Act shall be inclosed; and where the land lying between the fences of such highway not being common land shall upon a medium exceed thirty feet in breadth and not extend to fifty feet in

(8.) If, upon a Writ of *Ad quod Damnum*, the new Road is set out in the same Parish, the Parish ought to repair; if in a different Parish, the Person suing out the Writ. *Venner v. Lucy*, 3 Atk. 766.

(9.) Where an Order of Justices for the diversion and turning of a Road recites that they had viewed the new Road and found it to be in good condition and repair: Held to be a sufficient Certificate thereof under Stat. 13 Geo. 3. c. 78. §. 19. If the Certificate be deposited with the Clerk of the Peace, that is an enrolment of it within the same Section. Where a Road is

stopped up by order of the Justices, and a new one is substituted, partly over the Ground of a stranger, and partly over an accustomed Road, that is a sufficient compliance with the Act, provided the new Road convey the public to the same place as the old one did. *De Ponthieu v. Pennyfeather*, 1 Marsh 261. S. C. 5 Taunt. 634.

(10.) This Provision as to Roads diverted above twelve Months, relates only to Roads diverted so long before the passing of the Act; the word *henceforth* not admitting of any other construction. *Waite v. Smith*, 6 T. R. 133.

breadth the same shall not be stopped up or inclosed until satisfaction shall be made to the owner of such land for so much thereof as shall exceed the said breadth of thirty feet; and if the parties cannot agree in the satisfaction so to be made the same shall be adjusted by the said justices or the jury if a jury shall be impanelled; and if the land between the fences inclosing such highways not being common land shall exceed fifty feet in breadth upon a medium, or if the said old road so to be diverted or turned shall lie through the open field or ground belonging to any particular person or persons, such person or persons and also the person or persons entitled to the land between the fences on the side of such highway shall respectively hold and enjoy the land and soil of such old highway and pay to the surveyor for the use of the highways so much money as shall be agreed upon between the parties; or if they cannot agree, so much as shall be deemed and adjudged by the said justices or jury, if such jury shall be impanelled as aforesaid, to be adequate to the purchase of it, estimating such highway at thirty feet in breadth upon an average.

XXI. And be it further enacted, That where any footway shall be diverted by virtue of this Act through the land belonging to the same person who owned the land through which such old footway lay, the same shall be adjudged and deemed an exchange only and no satisfaction or compensation shall be made, unless the land to be used for such new footway shall be of greater length and of greater value than the land used for such old footway; and where the said footway shall not be turned through the lands belonging to the same person, the damage occasioned by such old footway to the lands through which it lay, if the parties interested shall not agree in adjusting the same, shall be adjudged by two indifferent persons, the one to be named by the owner of the land and the other by the said two justices; and if the persons so to be nominated cannot agree therein they shall chuse some third person to adjudge the same whose determination shall be final; and the money at which such damages shall be assessed shall be applied in making satisfaction to the owner or owners of the land through which such new footway shall be made.

XXII. And be it further enacted, That if in any parish township or place where any highway shall be diverted and turned by virtue of this Act it shall appear to the justices who are hereby authorised to view or inquire into the same (11.) that there are other highways within such parish township or place besides that so to be diverted and turned, which may without inconvenience to the publick be diverted into such new highway hereby authorised to be made or into any highway or other highways within such parish township or place, and the charge of repairing such highway or highways may be thereby saved to such parish township or place, it shall and may be lawful for such justices to order such highway or highways which shall appear to them unnecessary to be stopped up and the soil thereof sold in such manner and subject to such restrictions and such right of appeal to the party or parties aggrieved thereby as are herein-before respectively directed and given concerning the highways to be stopped up or inclosed.

XXIII. And be it further enacted, That every surveyor shall and may from time to time give information upon oath to the said justices or any two or more of them of all such highways and of all bridges causeways or pavements upon such highways as are out of repair and ought to be repaired by any person or persons bodies politick or corporate by reason of any grant tenure limitation or appointment of any charitable gift or otherwise howsoever; and the said justices shall limit a time for repairing the same, of which notice shall be given by the said surveyor to the occupier or occupiers of the lands or tenements liable to the burthen of such repairs, or to such other person or persons bodies politick or corporate as are charge-

No. I.

13 Geo. III.
c. 78.

When old Footways are stopped up, and new ones laid out, in what Manner Owners of Lands shall make and receive Satisfaction.

Justices to order unnecessary Highways to be stopped up.

Justices on Information of Surveyor, may order Highways, liable to be repaired by Tenure, &c. to be repaired.

(11.) This Power is only given where a new Road is set out. It must be one entire Act: the Chaiseur make one Provision, and the Powers un-

der them are to make but one Transaction: Page v. Howard, Cald. 228; but see Stat. 55 Geo. III. c. 68. post. No. 19.

No. I.
13 Geo. III.
c. 78.

Presentments of
Highways, &c.
out of Repair.

A *Certiorari pro*
Rege lies be-
fore *Traverse*.
Comp. 78.

Justices may
order what
Highways shall
be first repaired.

Direction Posts.

able with the same; and if such repairs shall not be effectually made within the time so limited, the said justices shall and are hereby required to present such highways bridges causeways or pavements so out of repair, together with the person or persons bodies politick or corporate liable to repair the same, at the next general quarter sessions of the peace for the limit wherein such highway shall lie, and the justices at such quarter sessions may if they see just cause direct the prosecution to be carried on at the general expence of such limit and to be paid out of the general rates within the same.

XXIV. And be it further enacted, That every justice of assize justices of the counties palatine of *Chester Lancaster and Durham* and of the great sessions in *Wales* shall have authority by this statute upon his or their own view, and every justice of the peace either upon his own view or upon information upon oath to him given by any surveyor of the highways, to make presentment at their respective assizes or great sessions or in the open general quarter sessions of such respective limit of any highway causeway or bridge not well and sufficiently repaired and amended, or of any other default or offence committed and done contrary to the provision and intent of this statute, and that all defects in the repair thereof shall be presented in such jurisdiction where the same do lie and not elsewhere; and that no such presentment nor any indictment for any such default or offence shall be removed by *certiorari* or otherwise out of such jurisdiction till such indictment or presentment be traversed and judgment thereupon given, except where the duty or obligation of; repairing the said highways causeways or bridges may come in question and that every such presentment made by any such justice of assize counties palatine great sessions or of the peace, upon his own view or upon such information having been given to such justice of the peace upon the oath of such surveyor of the highways as aforesaid, shall be as good and of the same force strength and effect in the law as if the same had been presented and found by the oaths of twelve men; and that for every such default or offence so presented as aforesaid the justices of assize counties palatine and great sessions at their respective courts and the justices of the peace at their general quarter sessions shall have authority to assess such fines as to them shall be thought meet: saving to every person or persons that shall be affected by any such presentment his her or their lawful traverse to the same presentment as well with respect to the fact of non-repair as to the duty or obligation of repairing the said highways as they might have had upon any indictment of the same presented and found by a grand jury; and the justices of the peace at their general quarter sessions or the major part of them may if they see just cause direct the prosecutions upon such presentments as shall be made at the quarter sessions as aforesaid to be carried on at the general expence of such limit and to be paid out of the general rates within the same.

XXV. And be it further enacted, That the said justices of the peace at any special sessions to be held by virtue of this Act may by writing under their hands and seals order and appoint those highways (not being turnpike road) which in their opinion do most want repair within their jurisdiction to be first amended, and at what time and in what manner the same shall be amended; according to which order, if such there be, all and singular the respective surveyors of the said highways are hereby required to proceed within their respective liberties.

XXVI. 'And for the better convenience of travellers where several highways meet,' Be it further enacted, That the said justices at some special sessions to be held for the purposes of this Act shall issue their precept to the surveyor of the highways for any parish township or place where several highways meet and there is no proper or sufficient direction post or stone already fixed or erected, requiring him forthwith to cause to be erected or fixed in the most convenient place where such ways meet, a stone or post with inscriptions thereon in large legible letters painted on each side thereof containing the name or names of the next market town or towns or other considerable place or places to which the said highways respectively lead; and also at the several approaches or

entrances to such parts of any highways as are subject to deep or dangerous floods graduated stones or posts denoting the depth of water in the deepest part of the same, and likewise such direction posts or stones as the said justices shall judge to be necessary for the guiding of travellers in the best and safest track through the said floods or waters; and the said surveyor shall be reimbursed the expences of providing and erecting the same respectively out of the monies which shall be received by him or them pursuant to the directions of this Act; and in case any surveyor shall by the space of three months after such precept to him directed and delivered neglect or refuse to cause such stones or posts to be fixed as aforesaid, every such offender shall forfeit the sum of twenty shillings.

XXVII. 'And for the better repairing and keeping in repair the said highways and providing of materials for that purpose,' Be it enacted, That it shall and may be lawful for every surveyor to be appointed as aforesaid to take and carry away or cause to be taken and carried away so much of the rubbish or refuse stones of any quarry or quarries lying and being within the parish township or place where he shall be surveyor (except such as shall have been got by the surveyor of any turnpike road) without the licence of the owner or owners of such quarries as they shall judge necessary for the amendment of the said highways, but not to dig or get stone in such quarry without leave of the owner thereof; and also that it shall and may be lawful for every such surveyor for the use aforesaid in any waste land or common ground river or brook within the parish township or place for which he shall be surveyor, or within any other parish township or place wherein gravel sand chalk stone or other materials are respectively likely to be found (in case sufficient cannot be conveniently had within the parish township or place where the same are to be employed, and sufficient shall be left for the use of the roads in such other parish township or place), to search for dig get and carry away the same, so that the said surveyor doth not thereby divert or interrupt the course of such river or brook or prejudice or damage any building highway or ford, nor dig or get the same out of any river or brook within the distance of one hundred feet above or below any bridge nor within the like distance of any dam or wear; and likewise to gather stones lying upon any lands or grounds within the parish township or place where such highway shall be for such service and purpose, and to take and carry away so much of the said materials as by the discretion of the said surveyor shall be thought necessary to be employed in the amendment of the said highways without making any satisfaction for the said materials; but satisfaction shall be made for all damages done to the lands or grounds of any person or persons by carrying away the same in the manner herein-after directed for getting and carrying (12.) materials in inclosed lands or grounds; but no such stones shall be gathered without the consent of the occupier of such lands or grounds, or a licence from a justice of peace for that purpose after having summoned such occupier to come before him and heard his reasons, if he shall appear and give any, for refusing his consent.

XXVIII. Provided always and be it further enacted by the authority aforesaid, That nothing in this Act contained relative to the gathering or getting of stones shall extend to any quantity of land (being private property) covered with stones thrown up by the sea commonly called *beach*.

XXIX. And be it further enacted, That it shall and may be lawful for every such surveyor for the use aforesaid to search for dig and get sand gravel chalk stone or other materials, if sufficient cannot conveniently be had within such waste lands common grounds rivers or brooks in and through any of the several or inclosed lands or grounds of any person or persons whomsoever within the parish township or place where the same shall be wanted, or by licence from two justices of the peace at a special

No. I.
13 Geo. III.
c. 78.

Materials.

If sufficient
Materials can-
not be found in
waste Lands,
&c.

(12.) If Lands are verminously and unnecessarily entered under colour of this Act, Trespass may be maintained; but the Damages to be paid in respect of Matters authorized by the Act, can

only be ascertained in the Manner prescribed by Sec. 29. and not by a Jury upon a Question as to the sufficiency of Amends in an Action of Trespass. Bayfield v. Porter, 13 E. 200.

Not L.
13 Geo. III.
c. 78.

sessions within any other parish township or place adjoining or lying near to the highway for which such materials shall be required, if it shall appear to such justices that sufficient materials cannot be conveniently had in the parish township or place where such highways lie, or in the waste lands or common grounds rivers or brooks of such adjacent parish township or place, and that a sufficient quantity of materials will be left for the use of the parish township or place where the same shall be (such lands or grounds not being a garden yard avenue or a house lawn park paddock or inclosed plantation), and to take and carry away so much of the said materials as by the discretion of the said surveyor shall be thought necessary to be employed in the amendment of the said highways; the said surveyor making such satisfaction for the damage to be done to such lands or grounds by the getting and carrying away the same as shall be agreed upon between him and the owner occupier or other person interested in such lands or grounds respectively in the presence and with the approbation of two or more substantial inhabitants of such parish township or place; and in case they cannot agree, then such satisfaction and recompence shall be settled and ascertained by order of one or more justice or justices of the peace of the limit where such land or ground shall lie: and in such places where from the want of other materials burnt clay may be substituted in the place thereof, it shall and may be lawful for the surveyor to dig clay in such places as he is hereby authorised to dig chalk or gravel, and to dry the same upon the lands adjoining and to burn the same upon any waste lands or common grounds, and to carry such clay in such manner as other materials are allowed to be carried by this Act upon making such satisfaction for the damages within the several inclosed lands or grounds where such clay shall be placed or carried as herein directed with regard to other materials: Provided, that when the owner of any such inclosed lands shall have occasion for any such materials lying within the same for the repair of any highway or other roads or ways upon his estate or which he shall be under obligation to repair, and shall give notice to such surveyor that he apprehends there will not be sufficient for those purposes and also for the use of the publick highways; then and in every such case the surveyor shall not be permitted to dig or take such materials without the consent of such owner or an order of two justices of the peace, after having summoned and heard the said owner or occupier or his steward or agent; which justices are hereby authorised to inquire into the nature and circumstances of the case, and to permit or restrain such power in such manner and under such directions as to them shall seem just.

XXX. 'And whereas in some parishes townships or places there may not be sufficient materials for the repair of the highways within the same, nor within the waste lands common grounds rivers or brooks of any other parish township or place lying within a convenient distance from such highway, by reason whereof the surveyor of such highway may be forced to buy such materials, and to make recompence and satisfaction to the owner or occupier of inclosed lands for damage which may be done by getting and carrying thereof: And whereas no provision is made for raising a fund to reimburse the expenses thereof, and also such expenses as the said surveyors may incur by erecting guideposts or other posts or stones, and by making or repairing such trunks tunnels plate bridges or arches as aforesaid, and by rendering satisfaction for damages done to lands by the making of new ditches or drains, nor for the salary to be paid by such parish township or place to such surveyor as aforesaid: Be it therefore enacted, That upon application by such surveyor to the justices of the peace at their special sessions, and oath made of the sum or sums of money which he hath bona fide laid out and expended or which will be required for the purposes aforesaid, the said justices or any two or more of them shall and they are hereby empowered by warrant under their hands and seals to cause an equal assessment to be made for the purposes aforesaid upon all occupiers of land tenements woods tithes and hereditaments within such parish township or place where such money shall be so expended or laid out; and the same shall be made and collected by such person or persons, and allowed

Expenses incurred for buying Materials, making Satisfaction for Damages, &c.

in such manner as the said justices by their order at such sessions shall direct and appoint in that behalf; and the money thereby raised shall be employed and accounted for according to the direction of the said justices for the purposes aforesaid; and the said assessment shall be levied in such manner as hereinafter mentioned: Provided nevertheless, That no such assessment to be made for those or any of those purposes in any one year shall exceed the rate of six pence in the pound, of the yearly value of the lands tenements woods tithes and hereditaments so to be assessed.

XXXI. And be it further enacted, That if any surveyor or person employed by him shall by reason of the searching for digging or getting any gravel sand stones chalk clay or other materials for repairing any highways make or cause to be made any pit or hole in any such lands or grounds rivers or brooks as aforesaid wherein such materials shall be found, such surveyor person or persons shall forthwith cause the same to be sufficiently fenced off and such fence supported and repaired during such time as the said pit or hole shall continue open, and shall within three days after such pit or hole shall be opened or made, where no gravel stones or materials shall be found, cause the same to be forthwith filled up levelled and covered with the turf or clod which was dug out of the same; and where any such materials shall be found, within fourteen days after having dug up sufficient materials in such pit or hole cause the same to be filled up sloped down or fenced off and so continued; and every surveyor shall within twenty days after he shall be appointed to that office cause all the said pits and holes which shall then be open and not likely to be further useful to be filled up or sloped down in manner aforesaid; and if they are likely to be further useful, he shall secure the same by posts and rails or other fences to prevent accidents to persons or cattle; and in case such surveyor person or persons shall neglect to fill up slope down or fence off such pit or hole in manner and within the time aforesaid, he or they shall forfeit the sum of ten shillings for every such default: and in case such surveyor person or persons shall neglect to fence off such pit or hole or to slope down the same as herein-before directed for the space of six days after he or they shall have received notice for either of those purposes from any justice of the peace or from the owner or occupier of such several ground river or brook or any person having right of common within such common or waste lands as aforesaid, and such neglect and notice shall be proved upon oath before one or more of the said justices of the peace, such surveyor person or persons shall forfeit and pay any sum not exceeding ten pounds nor less than forty shillings for every such neglect; to be determined and adjudged by such justice or justices, and to be laid out and applied in the fencing off filling up or sloping down such pit or hole, and toward the repair of the roads in the parish township or place where the offence shall be committed, in such manner as the said justice or justices shall direct and appoint; which forfeiture in case the same be not forthwith paid shall be levied as other forfeitures are hereinafter directed to be levied.

XXXII. Provided always and be it further enacted, That no stone gravel or materials to be dug for the use of any other parish township or place than that wherein the same are found shall be removed or carried from the place where they shall be so dug at any other time than between the first day of April and the first day of November or in the time of hard frost in the winter season.

XXXIII. And be it further enacted, That if any person shall dig or cause to be dug materials for the highways contrary to the direction of this Act, whereby any bridge mill building dam highway ford mines or tin-works may be damaged or endangered; every offender therein shall forfeit for every such offence any sum not exceeding five pounds nor less than twenty shillings, at the discretion of the court or justices before whom complaint thereof shall be made. (13.)

No. I.

13 Gen. III.
c. 78.

If Pits or Holes are made in getting Materials, Surveyor shall cause them to be filled up or fenced off.

Materials dug for any other Parish to be removed in Summer or hard Frost.

Persons damaging Mills, &c. for digging Materials, forfeit, &c.

(13.) Where a local Turnpike Act, after empowering the Trustees under it to take tolls, directed that the Roads should from time to time

be repaired by the Trustees out of the money arising by virtue of the Act: Held, that this only made the Tolls an auxiliary fund in the

No. I.
13 Geo. III.
c. 78.

Statute duty,
(14.)
in respect of
keeping a Team
or occupying
Lands, &c.

Contribution in
Money.

XXXIV. And be it further enacted, That the said surveyor to be appointed as aforesaid, together with the inhabitants and occupiers of lands tenements woods tithes and hereditaments within each parish township or place, shall at proper seasons in every year use their endeavours for the repair of the highways, and shall be chargeable thereunto as followeth; that is to say, Every person keeping a waggon wain plough or tumbrel and three or more horses or beasts of draught used to draw the same, shall be deemed to keep a team draught or plough and be liable to perform statute duty with the same in the parish township or place where he resides, and shall six days in every year (if so many days shall be found necessary) to be computed from *Michaelmas* to *Michaelmas* send on every day and at every place to be appointed by the surveyor for the amending the highways in such parish township or place one wain cart or carriage, furnished after the custom of the country with oxen horses or other cattle and all other necessaries fit to carry things for that purpose, and also two able men with such wain cart or carriage; which duty so performed shall excuse every such person from his duty in such parish township or place, in respect of all lands tenements woods tithes or hereditaments not exceeding the annual value of fifty pounds which he shall occupy therein: and every person keeping such team draught or plough and occupying in the same parish township or place lands tenements woods tithes or hereditaments of the yearly value of fifty pounds over and beyond the said yearly value of fifty pounds, in respect whereof such team duty shall be performed; and every such person occupying lands tenements woods tithes or hereditaments of the yearly value of fifty pounds in any other parish township or place besides that wherein he resides, and every other person not keeping a team draught or plough but occupying lands tenements woods tithes or hereditaments of the yearly value of fifty pounds in any parish township or place, shall in like manner respectively and for the same number of days find and send one wain cart or carriage furnished with not less than three horses or four oxen and one horse or two oxen and two horses, and two able men to each wain cart or carriage; and in like manner for every fifty pounds *per annum* respectively, which every such person shall further occupy in any such parish township or place respectively, such wains carts or carriages to be employed by the surveyor in the repairing and amending the highways within the parish township or place where such lands tenements woods tithes or hereditaments shall respectively lie; and every person who shall not keep a team draught or plough, but shall occupy lands tenements woods tithes or hereditaments under the yearly value of fifty pounds in the parish township or place where he resides or in any other parish township or place; and every person keeping a team draught or plough and occupying lands tenements woods tithes or hereditaments under the yearly value of fifty pounds in any other parish township or place than that wherein he resides, shall respectively contribute to the repair of the highways and pay to the surveyor of such parish township or place respectively in lieu of such duty the sums following; *videlicet*, For every twenty shillings of the annual value of such lands tenements woods tithes or hereditaments respectively the sum of one penny for every day's statute duty which shall be required and called for by the surveyor of such parish township or place respectively in every year, not exceeding six days duty in the whole as aforesaid; and every such person respectively shall in like manner pay the sum of one penny for every twenty shillings of the annual value of the lands tenements woods tithes and hereditaments which he shall occupy in any such parish township or

lands of the Trustees, and that the Inhabitants of the Township where the Road was situate, who by prescription were bound to repair all roads within it, were nevertheless liable to be indicted for non-repair of the road: Held also, that such Inhabitants may, after conviction, apply by motion for relief against the Trustees under 13 Geo. 3.

§ 33. Held also, that 13 Geo. 3. c. 84. § 63. refers to diversions under Writs of *Ad quod*

Damnum, and under 13 Geo. 3. c. 78. § 19. *Rex v. Netherthong* (Inhab.) 2 B. & A. 179.

(14.) The Performance of Statute Duty is now regulated by Stat. 34 Geo. III. c. 74. post. No. 14.; but for the Manner of enforcing the Provisions therein contained, it may be sometimes requisite to refer to the Clauses of this Act, which, as they relate to the quantity of Duty performed, are repealed.

Place respectively above the annual value of fifty pounds and less than one hundred pounds, and so for every twenty shillings that each progressive and intermediate annual value of twenty shillings of the lands tenements woods tithes and hereditaments which he shall so occupy shall fall short of the further increase of fifty pounds in every parish township or place where such lands tenements woods tithes and hereditaments shall respectively lie for every day's statute duty so to be required as aforesaid; which said several sums shall be considered as compositions, and shall be paid to the surveyor of the parish township or place in which they are charged for the use of the highways therein at the time such compositions are to be paid under the authority of this Act or within ten days after; or in default of such payments such money shall be levied by distress and sale of the goods and chattels of the person or persons refusing to pay the same, in such manner as the forfeitures for the neglect in performing the statute duty are hereby authorised to be levied and raised: Provided that no person keeping such team draught or plough and performing duty with the same as aforesaid in the parish township or place where he resides, and not occupying lands tenements woods tithes or hereditaments within the same of the yearly value of thirty pounds, shall be obliged to send more than one labourer with such team draught or plough.

XXXV. And be it further enacted, That every person who shall not keep a team draught or plough but shall keep one or more cart or carts and one or two horses or beasts of draught only used to draw in each of such carts upon the highways shall be obliged to perform his statute-duty for the like number of days with such cart or carts and horse or horses or beasts of draught and one labourer to attend each cart, or to pay for the lands tenements woods tithes and hereditaments which he shall occupy according to the rate aforesaid at the option of the surveyor; and every person who shall keep a coach post-chaise chair or other wheel-carriage and not keep a team draught or plough, nor occupy lands tenements woods tithes or hereditaments of the annual value of fifty pounds, in the parish township or place where he shall reside, shall pay to the surveyor one shilling in respect of every such day's statute-duty for every horse which he shall draw in any such carriage, or shall pay according to the value of the lands tenements or hereditaments which he shall occupy according to the rate aforesaid at the option of the surveyor; and also every man inhabiting in any parish township or place, (15) and being of the age of eighteen and under the age of sixty years not chargeable in any of the respects aforesaid for lands tenements woods tithes or hereditaments of the yearly value of four pounds or upwards, and not being *bona fide* an apprentice or menial servant, nor having performed the said duty or paid the composition for the same in any other parish township or place for that year, shall by themselves or one sufficient labourer for every of them upon every of the said days on which they shall be called forth by the said surveyor together with the said other labourers work and labour in the amendment of the said highways as they shall be directed by such surveyor; and if the said teams draughts or ploughs or any of them shall not be thought needful by the surveyor on any of the said days, then every such person who should have sent any such team draught or plough according to the directions aforesaid shall according to the notice to be given as hereinafter directed send unto the said work for every one so spared three able men there to labour as aforesaid or to pay to the said surveyor the sum of four shillings and sixpence in lieu thereof; and all such persons as aforesaid shall respectively have and bring with them such shovels spades picks mattocks and other tools and instruments as are useful and proper for the purposes aforesaid; and all the said persons and carriages shall diligently perform the work and labour to which they shall be appointed by such surveyor for eight hours in every of the said days within such parish township or place or in getting and carrying materials in and from any other parish township or place to

No. I.

13 Geo. III.
c. 78,

How Contributions in Money are to be recovered.

The Duty required from Persons who do not keep a Team, but Horses used to draw, &c.

Personal Labour required.

Three Men to be sent in lieu of a Team, if required, or 4s. 6d. in Money.

Under what Regulation Duty shall be performed.

(15.) The liability to repair, as a mere personal obligation, is altogether repealed by Statute 24 Geo. III. c. 74.

No. I.

38 Geo. III.
c. 78.

be employed in the repair of the highways of the parish township or place for which they shall be required to perform such duty and labour as aforesaid: and if any person sending a team as aforesaid shall not send a sufficient labourer besides the driver (except as herein-before mentioned); or if any such labourer or driver or any other labourer or the driver of any cart required by this Act to perform statute-duty as aforesaid shall refuse to work and labour during the time above-mentioned according to the direction of the surveyor; or if any driver shall refuse to carry proper and sufficient loads; it shall and may be lawful for such surveyor to discharge every such team cart or labourer, and to recover from the owner of every such team or cart the forfeiture which every such person or persons would have incurred by virtue of this Act in case no such team cart or labourer respectively had been sent.

Surveyor may
call for Part of
a Team.

XXXVI. And be it further enacted, That it shall and may be lawful for the surveyor where the employment for teams is of such sort that two horses will be sufficient for one cart, or where a stand cart with one horse shall be necessary, to call upon any person liable to send a team draught or plough by virtue of this Act who keeps one or more cart or carts and three or more horses to send such cart or carts horse or horses to perform his statute-duty as the surveyor shall find most convenient and shall direct; and the surveyor shall allow every such stand cart and one horse as half a team, and every cart and two horses as two-thirds of a team; and if a waggon shall be found necessary for any particular business, the surveyor may require the duty or any part thereof to be performed with such waggon by any person who keeps one; which directions of the surveyor shall be observed or the person liable to perform such duty shall forfeit such sum as the duty so required of him shall bear in proportion to the forfeiture hereby inflicted for every neglect in performing duty with a team draught or plough.

What Notice
to be given for
performing the
Duty.

XXXVII. And be it further enacted, That every such surveyor shall from time to time give to or cause to be left at the house or usual place of abode of every person or persons so liable to perform such duty or labour as in this Act directed four days' notice at the least of the day hour and place upon which each of the said day's duty shall be required to be performed; and every person or persons making default in finding and sending each wain cart or carriage furnished as aforesaid, and such able men with the same as herein required, or in performing the said duty at the time and place and in the manner by this Act directed, shall for every such default or neglect in sending such wain cart or carriage with such men as aforesaid forfeit the sum of ten shillings; and for every default in sending every cart with one horse and one man three shillings; and for not sending every cart with two horses and one man five shillings: and every person or persons making default in sending any such labourer and every person making default in performing such labour at the time and place and in the manner directed by this Act, or in paying such composition-money for the same as herein mentioned shall for every such neglect forfeit the sum of one shilling and six pence; all which forfeitures shall be applied for the use of the highways within the parish township or place where the same shall arise; and the said surveyor shall fairly and equally demand and require such duty and labour from every person or persons liable to perform the same according to the directions of this Act without favour or partiality to any person or persons whomsoever: and if in any parish township or place it shall not be necessary to call forth the whole duty in any year it shall be abated in a just and equal proportion amongst all persons liable to the same; and the said surveyor may and shall and he is hereby required with all convenient speed after default made in performance of such duty or labour as aforesaid to proceed for the recovery of the penalties or forfeitures hereby inflicted for the same respectively in manner herein-after directed, so that the same may be recovered before he makes up his accounts in the manner directed by this Act.

Forfeitures for
Neglect.

Application of
the Forfeitures.

Surveyor to call
forth the Duty
equally.

Penalty may
be imposed for
omitting work.

XXXVIII. Provided always and be it further enacted, That any person or persons liable to perform the said duty by sending one or more team or teams draught or draughts plough or ploughs with men horses or oxen



Composition
fixed.

in manner aforesaid shall and may compound for the same if he or she or they shall think fit, by paying to the said surveyor at the time and in the manner herein-after mentioned such sum or sums of money as the justices of the peace for the limit wherein such parish township or place shall be or the major part of them at their said special sessions to be held in the first week after Michaelmas quarter sessions in every year shall adjudge and declare to be reasonable not exceeding six shillings nor less than three shillings for each team draught or plough for each day; and in default of their adjudging and declaring the same the sum of four shillings and sixpence for and in lieu of every such day's duty for each team draught or plough; and for every cart and one horse or beast of draught two shillings; and for every cart with two horses or beasts of draught three shillings for and in lieu of every day's duty; and every inhabitant liable to perform such duty or labour as aforesaid and not chargeable in any other respect as aforesaid shall and may compound for the same if he or she or they shall think fit, by paying to the surveyor the sum of four pence for and in lieu of every such day's duty or labour respectively, at the time and in the manner herein-after directed for the payment of composition-money. (16.)

XXXX. Provided always and be it further enacted, That if it shall appear to the justices at their special sessions to be held in the week next after Michaelmas quarter sessions that from the directions herein-before given for the performing and compounding the statute-duty, there will be difficulty in procuring the necessary carriage or a sufficient number of labourers for the repair of the highways in any particular parish township or place within their respective limits without paying high and extravagant prices for the same, it shall and may be lawful for such justices to order and direct the team-duty hereby required or so much thereof as they shall think fit to be performed in kind within every such parish township or place, except in respect of such teams as belong to persons who do not occupy lands tenements woods tithes or hereditaments of the annual value of thirty pounds within the same; and also to order the labourers liable by this Act to perform or compound for statute-duty or such part of them as they shall think fit to perform six days labour upon such highways in kind in case so many days duty shall be required, upon being paid for such labour the usual and customary wages given to labourers in such parish township or place, deducting thereout the sum of four pence for each day's duty so performed, being the composition hereby allowed for labourers: Provided, That if part of such teams or labourers only are required, it shall be directed by the said order of the justices in some given proportion as one half third or fourth part thereof; and the surveyor shall in that case at a public vestry for such parish township or place put the names of all the persons liable by this Act to send such teams into one hat or box, and the names of all the persons liable to perform such labour into another hat or box, and some inhabitant then present shall draw out such number from each as shall be equal to the proportion so ordered by the said justices, and the persons so drawn shall perform such duty in kind for that year; and that if any such order shall be made or continued in the subsequent year the same method shall be observed, but the names drawn in the preceding year shall not be put into such hat or box; and in every succeeding year such method and regulation shall be observed by such surveyor as to render the duty so required to be performed in kind as equal amongst the several persons liable thereto as may be: which order of the said justices as far as the same shall be extended shall supersede the said power or liberty of compounding and shall be binding and effectual to all intents and purposes whatsoever, and shall continue in force until it shall be discharged or varied by the justices at some subsequent special sessions for the highways within such limit to be held in the week next after Michaelmas quarter sessions; any thing herein contained to the contrary thereof in any way notwithstanding.

Justices may
direct the Per-
formance of
Team Duty or
Labour in kind
in any particu-
lar Parish.

(16.) Statute 54 Geo. III. c. 122. part No. 20. the Option of calling for Composition, instead of Statute-duty, is given to the Surveyors.

No. I.

23 Geo. III.
c. 78.Justices may
mitigate Com-
position, &c.Surveyors to
give Notice of
compounding.How Compo-
sition-money
shall be paid
and employed.Persons keep-
ing a Draught
or Plough, to
pay for Horses
drawing them.Inhabitants may
fix certain
Times when
Duty shall not
be.

XL. Provided always and be it further enacted, That if any person or persons who shall keep a team draught or plough and shall not occupy lands tenements woods tithes or hereditaments to the value of thirty pounds *per annum* in the parish township or place where he shall reside, but shall in part maintain his horses and beasts of draught used in such team upon or from lands which he shall occupy in one or more adjacent parish or parishes, it shall and may be lawful for the said justices at some special sessions to mitigate and reduce the duty or composition so required to be performed or paid by such person or persons in such manner and to such sum as they shall think just and reasonable.

XLi. Provided also and be it further enacted, That the said surveyor of every parish township or place shall on some *Sunday* in *November* in every year cause ten days' notice at the least to be given in the church or chapel of such parish township or place, and if there be no church or chapel or no service performed therein, then at the most publick place there, and repeat the like notice in such church chapel or place on the next succeeding *Sunday*, of the time and place when and where the persons permitted under the authority of this Act and inclined to compound for the said duty in manner aforesaid may signify to such surveyor their intention to compound; and all and every person or persons signifying the same, who shall then or within the space of one calendar month afterwards pay to such surveyor the composition authorised and allowed by this Act, shall be discharged from the performance of such duty, which composition-money shall be employed by the surveyor for the use of the highways; and that no composition shall be permitted unless the same shall be paid at the day or within the time aforesaid; but in cases where the occupation of any lands tenements woods tithes or hereditaments shall be changed or any new occupant or inhabitant shall come to reside in such parish township or place after the time appointed for such composition, then the person or persons occupying such lands tenements woods tithes or hereditaments or so residing in such parish township or place shall be allowed to compound in manner aforesaid: Provided he she or they shall pay the said composition-money to the said surveyor within fourteen days after he she or they shall enter upon such lands tenements or hereditaments or shall come to reside in such parish township or place; and every tenant or occupier of any lands tenements woods tithes or hereditaments who intends to quit the possession thereof within six calendar months from the time fixed for making such composition shall and may compound for half the duty hereby required, and the succeeding tenant or occupier shall and may in that case compound or perform the duty in kind for the other half thereof; and if the surveyor shall receive from any person or persons a composition for more duty than shall be required from the other inhabitants and occupiers within the same parish township or place for the same year, he shall repay such extraordinary composition-money to such person or persons so as to bring the duty to an equality amongst all such inhabitants and occupiers.

XLII. Provided always and be it further enacted, That in every parish township or place where any person shall keep a draught or plough and no carriage, he shall pay to the surveyor the sum of one shilling for every horse or pair of oxen or neat cattle used in such draught or plough for every day's statute-duty on the day such duty is required to be performed or pay according to the rate aforesaid for the lands tenements woods tithes and hereditaments which he shall occupy in such parish township or place at the option of the surveyor.

XLIII. 'And in order to prevent as much as possible any inconvenience to the persons liable to perform statute-duty,' Be it enacted, That it shall and may be lawful for the inhabitants of every parish township or place at some vestry or other publick meeting or meetings to be held pursuant to this Act to appoint three months in every year within which no statute-duty shall be performed; *videlicet*, one month in the spring to be called *The Seed Month*; one month in the summer for the hay harvest; and one other month in the summer for the corn harvest: Pro-

vided, That notice in writing be given of the times so appointed to the surveyor of such parish township or place respectively and also to the surveyor of every turnpike road lying within the same within three days after every such meeting and fourteen days at least before the beginning of each of such months.

XLIV. 'And whereas by several Acts of Parliament concerning turnpike roads a certain part of the duty called *Statute-duty* is or may be directed to be performed on such roads, and it may happen in some places that the several persons liable thereto may have compounded for the same; Be it therefore further enacted, That in all such cases the surveyor of the highways of the parish township or place where such composition shall have been made shall pay to the treasurer or surveyor of such turnpike roads a certain part of the composition-money so received, to be proportioned according to the number of days duty which such person or persons was or were liable to perform on such turnpike road; which money shall be laid out and expended on such part of the said turnpike road as lies within the parish township or place from which it was received and not elsewhere; and if such surveyor of the highways shall refuse or neglect to pay to the treasurer or surveyor of such turnpike road such part of the said composition-money so received by him within twenty days after he shall have received the same upon demand made by such treasurer or surveyor, the same shall and may be levied upon the goods and chattels of such surveyor in such manner as penalties and forfeitures are by this Act authorised to be levied.

XLV. And be it further enacted, That if upon application of the surveyor of the highways for any parish township or place to the justices of the peace for the limit wherein such parish township or place lieth at their general or quarter sessions of the peace or at some special sessions for the highways, the said justices shall be fully satisfied by proof upon oath that the duty hereby directed to be performed and the money hereby authorised to be collected and received has been performed applied and expended according to the directions of this Act, or shall be fully satisfied that the common highways bridges causeways streets or pavements belonging to such parish township or place are so far out of order that they cannot be sufficiently amended and repaired paved cleansed and supported by the means herein-before prescribed (notice being first given of such intended application at the church or chapel of such parish township or place on some *Sunday* preceding such quarter or special sessions; or if the place be extraparochial, notice in writing being first given of such intended application to some of the principal inhabitants residing in such extraparochial place a week at least before such general or special sessions); that then and in any of the said cases an equal assessment upon all and every the occupier of lands tenements woods tithes and hereditaments within any such parish township or place shall or may be made and collected by such person and persons and allowed in such manner as the said justices by their order at such general or special sessions shall direct and appoint in that behalf; and the money thereby raised shall be employed and accounted for according to the orders and directions of the said justices for and towards the amending repairing paving cleansing and supporting such highways causeways streets pavements, and bridges from time to time as need shall require.

XLVI. Provided nevertheless, That the assessment herein last before authorised and the assessment herein-before authorised for buying materials making satisfaction for damages erecting guide-posts and paying the surveyor's salary shall not together in any one year exceed the rate of nine pence in the pound of the yearly value of the lands tenements woods tithes and hereditaments so to be assessed.

XLVII. And be it further enacted, That no fine issue penalty or forfeiture for not repairing the highways or not appearing to any indictment or presentment for not repairing the same shall hereafter be returned into the Court of Exchequer or other court, but shall be levied by and paid into the hands of such person or persons residing in or near the parish township or place where the road shall lie as the court imposing such

No. I.

13 Geo. III.
c. 78.

Where Surveyor receives Composition, he shall pay it to the Treasurer, &c.

If Duty and Money not sufficient, Justices may order an Assessment :
See Doug. 405.

Fines, Penalties, and Forfeitures.
See Doug. 405.

No. I.

18 Geo. III.

c. 78.

fine issues penalties or forfeitures shall order and direct to be applied towards the repair and amendment of such highways; and the person or persons so ordered to receive such fine shall and is hereby required to receive apply and account for the same according to the direction of such court, or in default thereof shall forfeit double the sum received; and if any fine issue penalty or forfeiture to be imposed on any such parish township or place for not repairing the highways or not appearing as aforesaid shall hereafter be levied on any one or more of the inhabitants of such parish township or place, that then such inhabitant or inhabitants shall and may make his or their complaint to the justices of the peace at their special sessions; and the said justices are hereby empowered and authorized by warrant under their hands and seals to cause a rate (17.) to be made according to the form and manner herein last before prescribed for the reimbursing such inhabitant or inhabitants the monies so levied on him or them as aforesaid; which rate so made and confirmed by any two justices shall be collected and levied by the surveyor of the highways of such parish township or place so presented or indicted as aforesaid; and the said surveyor shall within one month next after the making and confirming the rate aforesaid collect levy and pay unto such inhabitant or inhabitants the money so levied on him or them as aforesaid. (18.)

Surveyor's
Duty.

XLVIII. And be it further enacted, That the surveyor of the highways for every parish township or place shall carefully and diligently collect or cause to be collected the several assessments forfeitures penalties sums of money and compositions directed and allowed to be received and taken within the same by virtue of this Act within the year for which he is appointed surveyor, and shall keep one or more book or books in which he shall fairly enter a just true and fair account of all such money as shall have come to his hands or to the hands of the said assistant, in respect of such parish township or place by virtue and for the purposes of this Act, and to whom and on what occasion he shall have paid or applied the same; and shall also enter in such book or books a list or lists of all such sums of money as shall then remain due and owing from any person or persons in respect of the payments compositions assessments penalties or forfeitures to be collected received or taken for and in respect of the said highways by virtue of this Act; and the said surveyor shall also enter in the said book or books an account of all tools materials implements and other things provided or to be provided by order of the inhabitants, at a vestry or other publick meeting for the repair of the said highways at the publick expence of such parish township or place; and shall produce such books and the assessments made within that year for the purposes of this Act unto the inhabitants of the parish township or place to which they belong, at a vestry or other publick meeting to be held for that purpose within fifteen days before the said special sessions so to be held in the week next after Michaelmas quarter sessions as aforesaid, to the intent that the said accounts assessments and lists may be inspected by the inhabitants of such parish township or place respectively; and every such surveyor shall after the said books and assessments shall have been produced at such meeting, take the same to such justice of the peace for the limit wherein such parish township or place doth lie, on such day and at such hour as shall be agreed upon at such meeting and some day after the said meeting of the inhabitants and before such last-mentioned special sessions, and then and there verify such account or any part thereof upon oath if required; and such justice may allow such account if he finds it just, or postpone it until such spe-

(17.) A Mandamus to make such Rate refused, after a length of time, which appeared to the Court unreasonable. *R. v. Inhabitants of Lancashire*, 6 K. 366.

(18.) Where two Townships of a Parish repaired their Highways separately, and the indictment was against the Parish for non-repair of

a Road in one of the Townships, the Inhabitants of the other not having any Notice thereof, a special Mandamus was granted to levy the Fine upon the Township separately liable. *R. v. Townsend*, Doug. 466. (423)—and see *Ben v. Justices of Lancashire*, 12 K. 266.

cial sessions if he finds cause for so doing, in which case it may be settled and allowed at such special sessions after the parts objected to by such justice shall have been explained and verified by proper evidence to the satisfaction of the justices at such special sessions; and in case any articles contained in such accounts shall not be explained and proved to the satisfaction of such justices they may disallow the same; and whenever the said accounts shall be so settled and allowed or disallowed as aforesaid, all such books and assessments shall be transmitted to the churchwarden or overseer of the poor for such parish township or place respectively, or if the place be extraparaohial then to some principal inhabitant thereof, to be kept for the use of such parish township or place; and the said surveyor shall forthwith deliver a duplicate of such book and account, together with all sums of money as shall remain in his hands, and likewise all tools materials implements and other things as aforesaid to the succeeding surveyor for such parish township or place in case any new surveyor shall be appointed, or retain the same in his hands and account for them in his next account if he shall be continued surveyor of such parish township or place in the succeeding year; and it shall and may be lawful for the succeeding surveyor and he is hereby authorized and required to recover collect and receive all such sums of money which shall be due and owing as aforesaid by all such ways and means, as fully and effectually to all intents and purposes as the preceding surveyor could might or ought to have recovered collected or received the same: and in case such surveyor shall neglect to provide such book or books or to enter such respective accounts and lists therein or to deliver the said book or books and such duplicate thereof and such assessments tools materials implements and other things in manner aforesaid, he shall for every such offence forfeit any sum not exceeding five pounds nor less than forty shillings; and in case he shall make default in the paying or accounting for the money so remaining in his hands within the time and according to the directions aforesaid, he shall forfeit double the value of the money which shall be adjudged by the said justices to be in his hands; and in case any such surveyor shall die before such respective accounts and lists shall be made out or such monies books assessments tools materials and implements shall be so delivered and paid, the executors or administrators of such surveyor shall make out pay and deliver the same in like manner and under the like penalty as such surveyor is hereby required and made subject and liable to; and every surveyor shall pay to the justices' clerks for the appointment and charge the sum of one shilling; for the bond six pence; and for the account so to be examined and taken and for the oath so to be administered the sum of one shilling and no more; and if any person or persons shall receive any greater sum or fee for the business aforesaid than herein-before mentioned he shall forfeit the sum of ten pounds for every offence.

XLIX. And be it further enacted, That in every parish township or place where a sufficient quantity of stone gravel chalk or other materials cannot be provided and carried by the labourers and teams required by this Act to perform statute-duty within such parish township or place, the said surveyor shall and is hereby required to contract for the getting and carrying thereof (in the presence of the said assistant if any such shall be appointed) at a meeting to be held for that purpose, of which ten days' notice in writing shall be given by fixing the same upon the door of the church or chapel of such parish township or place, or if there be no church or chapel at the most public place there; which notice shall specify the work to be done and the time and place for letting thereof; and if any surveyor shall have any part share or interest directly or indirectly in any such contract, or in any other contract or bargain for work or materials to be made done or provided upon for or on account of any of the highways roads bridges or other works whatsoever under his care or management, or shall upon his own account directly or indirectly let to hire any team or sell or dispose of any timber stone or other materials to be used or employed in making or repairing such roads bridges or other works as aforesaid (unless a licence in writing for the sale of

No. I.

13 Class. III.
c. 78.Surveyor liable
to Forfeitures.If Surveyor
dies, his Exe-
cutors, &c.
shall account.Fees to Jus-
tices' Clerks.Surveyor may
contract for get-
ting and carry-
ing Materials.If Surveyor has
a Share in any
Contract, &c.
without Li-
cence, &c. he
shall forfeit
10l. &c.

No. I.

13 Geo. III.
c. 78.shall forfeit 5*l*.
when no Penal-
ty is imposed.Persons en-
feoffed with
Lands for
Maintenance of
Causeways, &c.
shall let them
at the most im-
proved Value.Penalty on da-
maging Banks,
&c.Justices of
Cities, &c.Justices of
Cities or Bo-
roughs not to
allow Salaries
to Surveyors,
except, &c.Number of
Horses for

any such materials or to let to hire any such team be first obtained from some justice of the peace within that limit), he shall forfeit for every such offence the sum of ten pounds, and be for ever after incapable of being employed as a surveyor with a salary under the authority of this Act.

L. And be it further enacted, That if any surveyor of the highways after his acceptance of the said office shall neglect his duty in any thing required of him by this Act for which no particular penalty is imposed, he shall forfeit for every such offence any sum not exceeding five pounds nor less than ten shillings at the discretion of the justice or justices having jurisdiction therein.

LI. And be it further enacted, That where any lands have been or shall be given for the maintenance of causeways pavements highways and bridges, all such persons who are or shall be enfeoffed or trusted with any such lands, shall let them to farm at the most improved yearly value without fine; and that the justices of the peace in their open sessions shall and may inquire by such ways and means as they shall think fitting into the value of all such lands so given or to be given, and order the improvement and employment of the rents and profits thereof according to the will and direction of the donor of such lands, if they find that the persons so intrusted have been negligent or faulty in the performance or trust (except such lands have been given for the uses aforesaid to any college or hall in either of the universities of this kingdom which have visitors of their own); any law statute usage or custom to the contrary notwithstanding.

LII. 'And whereas in some places it hath been and may be found necessary and the surveyors are hereby authorised and required to secure horse causeways and foot causeways by posts blocks or great stones fixed in the ground or by banks of earth cast up or otherwise from being broken up and spoiled with waggons wains carts or carriages; and forasmuch as several evil-disposed persons do or may willfully or wantonly pull up cut down and remove or damage the said posts blocks and great stones so fixed or to be fixed as aforesaid, and drive carriages upon such banks and causeways or against the sides thereof, and also dig or cast down the said banks which are the securities and defence of the said causeways, whereby the causeways or banks are often ruined and destroyed; and such evil-disposed persons do or may break damage or throw down the stones bricks or wood fixed upon the parapets or battlements of bridges, and do or may pull down destroy obliterate or deface any mile stone or post graduated or direction post or stone erected or to be erected upon any highway: For prevention thereof be it enacted, That every person who shall be guilty of any such offence shall upon complaint thereof made to any justice of the peace of the limit where the same shall be proved to be done, by the oath of any one credible witness or upon view of the justice himself, forfeit for every of the said offences any sum not exceeding five pounds nor less than ten shillings; and in default of payment thereof shall be committed to the house of correction of such limit, there to be whipped and kept to hard labour for any time not exceeding one calendar month nor less than seven days, at the discretion of such justice.

LIII. And be it further enacted, That the justices of the peace of all cities corporations boroughs and other places are hereby required to put in execution every part of this Act within their respective jurisdictions.

LIV. Provided always and be it further enacted, That nothing in this Act contained shall authorise or empower or be deemed construed or taken to authorise and empower any justice or justices of the peace for any city town corporate or borough, to fix or allow any salary to or for any surveyor to be appointed by any such justice or justices other than and except such salary as shall be settled and agreed upon by two parts out of three of the persons assembled in the parish township or place within such city town corporate or borough for which such surveyor shall be appointed pursuant to the directions of this Act.

LV. 'And whereas the highways not being turnpike roads are much

'prejudiced by the narrowness of the wheels of the several carriages travelling thereon and by the excessive burthens loaded in such carriages;' Be it enacted, That no waggon having the sole or bottom of the fellies of the wheels of the breadth of nine inches shall go or be drawn with more than eight horses; and that no cart having the sole or bottom of the fellies of the wheels thereof of the breadth of nine inches shall go or be drawn with more than five horses; and that no waggon having the sole or bottom of the fellies of the wheels of the breadth of six inches and rolling on each side a surface of nine inches shall go or be drawn with more than seven horses; and that no such waggon rolling a surface of six inches only shall go or be drawn with more than six horses; and that no cart having the sole or bottom of the fellies of the wheels of the breadth of six inches shall go and be drawn with more than four horses; and that no waggon having the sole or bottom of the fellies of the wheels of less breadth than six inches shall go or be drawn with more than five horses; and that no cart having the sole or bottom of the fellies of the wheels of less breadth than six inches shall go or be drawn with more than three horses upon such highways under the pains penalties and forfeitures herein-after mentioned; (that is to say) That the owner of such waggon or cart respectively shall forfeit the sum of five pounds, and the driver not being the owner the sum of ten shillings for every horse or beast which shall be so drawing above the number hereby so respectively limited as aforesaid to the sole use and benefit of the informer; but carriages moving upon wheels or rollers of the breadth of sixteen inches on each side thereof with flat surfaces are hereby allowed to be drawn with any number of horses or other cattle.

LVI. Provided always and be it enacted, That no prosecution shall be commenced before a justice of peace by way of information for any forfeiture incurred by the owner or driver of any carriage having a greater number of horses therein than are allowed by this Act, unless such information be laid within three days after the offence committed; and that no action shall be commenced for any such offence unless the same be commenced within one calendar month after the offence committed; and that neither such information or action shall be laid or commenced unless notice shall be given by the informer to the driver of every such carriage, on the day upon which the offence shall be committed, of an intention to complain of such offence; and if it shall appear to the justice before whom such complaint shall be made that the offender lives so remote as to make it inconvenient to summon him to appear before such justice, the justice may dismiss the complaint and leave the informer to his remedy by action at law.

LVII. Provided always and be it further enacted, That it shall and may be lawful for the justices of the peace at their respective general quarter sessions of the peace to be held in the week after *Michaelmas* to licence in such manner and for such time as they shall think fit an increase of the number of horses to be drawn in carriages up any steep hill or on any road not turnpike within their respective jurisdictions, over and above the number herein-before limited if upon inquiry into the state and condition of such roads they shall find any additional number of horses necessary; and from time to time at any *Michaelmas* quarter sessions to revoke alter or vary the same as they shall think fit.

LVIII. Provided always and be it further enacted, That if it shall appear upon the oaths of credible witnesses to the satisfaction of any justice or justices of the peace or of any court of justice authorised to enforce the execution of this Act, that any waggon cart or carriage could not by reason of deep snow or ice be drawn by the number of horses or beasts of draught hereby respectively allowed; then and in every such case it shall and may be lawful for such justice or justices of the peace or court respectively, and they are hereby respectively required to stop all proceedings before them respectively for the recovery of any penalty or forfeiture which may have been incurred by drawing with a greater number of horses or beasts of draught than are hereby allowed; any

No. I.

13 Geo. III.
c. 78.Waggons and
Carts with different
Wheels.Prosecutions
for additional
Number of
Horses.Justices may
licence an In-
crease of
Horses,and stop Pro-
ceedings when
necessary.

No. I.
13 Geo. III.
c. 78.

(Carriages ex-
cepted out of
this Act.

Two Oxen to be considered as one Horse.

Owner's Name,
&c. to be
painted on all
Waggons, &c.
let to Hire.

Drivers of Car-
riages punish-
able.

thing herein contained to the contrary notwithstanding: Provided also, That the regulations herein-before mentioned concerning the number of horses and wheels of carriages shall not be deemed or construed to extend to carts waggons or other carriages employed only in carrying any one stone block of marble cable rope or piece of metal or piece of timber, or to such ammunition or artillery as shall be for his Majesty's service; and that two oxen or horned cattle shall for all the purposes of this Act be considered as one horse.

LIX. 'And for the better discovery of offenders against this present Act,' Be it enacted, That the owner of every waggon wain or cart, and also of every coach post chaise or other carriage let to hire, shall paint or cause to be painted upon some conspicuous part of his waggon wain or cart, and upon the pannels of the doors of all such coaches post chaises or other carriages before the same shall be used upon any publick highway, his or her christian and surname and the place of his or her abode in large legible letters, and continue the same thereupon so long as such waggon cart coach post chaise or other carriage shall be used upon any such highway; and the owner of every common stage waggon or cart employed as travelling stages from town to town, shall over and above his or her christian and surname paint or cause to be painted on the part and in the manner aforesaid the following words, *Common Stage Waggon or Cart* as the case may be; and every person using any such carriage as aforesaid upon any highway without the names and descriptions painted thereon respectively as aforesaid, or who shall paint or cause to be painted any false or fictitious name or place of abode, on such waggon wain cart coach post chaise or other carriage, shall forfeit for every such offence a sum not exceeding five pounds nor less than twenty shillings.

LX. 'And whereas many bad accidents happen and great mischiefs are frequently done upon the streets and highways by the negligence or wilful misbehaviour of persons driving carriages thereon;' Be it therefore further enacted, That if the driver of any cart car dray or waggon shall ride upon any such carriage in any street or highway, not having some other person on foot or on horseback to guide the same (such carriages as are conducted by some person holding the reins of the horse or horses drawing the same excepted); or if the driver of any carriage whatsoever on any part of any street or highway shall by negligence or wilful misbehaviour cause any hurt or damage to any person or carriage passing or being upon such street or highway, or shall quit the highway and go on the other side the hedge or fence inclosing the same; or wilfully be at such distance from such carriage whilst it shall be passing upon such highway that he cannot have the direction and government of the horses or cattle drawing the same; or shall by negligence or wilful misbehaviour prevent hinder or interrupt the free passage of any other carriage or of his Majesty's subjects on the said highways; or if the driver of any empty or unloaded waggon cart or other carriage shall refuse or neglect to turn aside and make way for any coach chariot chaise loaded waggon cart or other loaded carriage; or if any person shall drive or act as the driver of any such coach post chaise or other carriage let for hire, or waggon wain or cart not having the owner's name as before required painted thereon, or shall refuse to discover the true christian and surname of the owner of such respective carriages, every such driver so offending in any of the cases aforesaid and being convicted of any such offence either by his own confession, the view of a justice of peace, or by the oath of one or more credible witness or witnesses, before any justice of the peace of the limit where such offence shall be committed, shall for every such offence forfeit any sum not exceeding ten shillings in case such driver shall not be the owner of such carriage; and in case the offender be owner of such carriage then any sum not exceeding twenty shillings: and in either of the said cases shall

in default of payment be committed to the house of correction for any time not exceeding one month, unless the same shall be sooner paid; and every such driver offending in either of the said cases shall and may by authority of this Act with or without any warrant be apprehended by any person or persons who shall see such offence committed, and shall be immediately conveyed or delivered to a constable or other peace officer in order to be conveyed before some justice of the peace to be dealt with according to law: and if any such driver in any of the cases aforesaid shall refuse to discover his name it shall and may be lawful for the justice of the peace before whom he shall be taken or to whom any such complaint shall be made to commit him to the house of correction for any time not exceeding three months, or to proceed against him for the penalty aforesaid by a description of his person and the offence, and expressing in such proceedings that he refused to discover his name.

LXI. And be it further enacted, That it shall and may be lawful for any two or more justices of the peace within their respective limits (19.) and they are hereby empowered from time to time whenever they shall judge proper to hold any special sessions besides that which is herein-before directed for executing the purposes of this Act; and to adjourn the same from time to time as they shall think fit, causing notice to be given of the time and place of holding such special sessions and of the adjournments thereof to the several justices acting and residing within such limits by the high constable or other proper officer within the same.

LXII. 'And for preventing obstructions which frequently happen by stopping of carriages on or near publick bridges,' Be it further enacted, That if any person or persons collecting any tolls payable for passing over any publick bridge with carriages or cattle of any kind shall keep any victualling-house alehouse or other place of publick entertainment, or shall sell or permit to be sold therein any wine beer ale cyder spirituous liquors or other strong liquors by retail, he she or they being lawfully convicted of such offence by the oath of one or more credible witness or witnesses or by his own confession before any justice of the peace of the limit wherein such offence shall be committed, shall for every such offence forfeit the sum of five pounds. (20.)

LXIII. 'And whereas inconveniences have arisen from making hedges or other fences and from ploughing or breaking up the soil of lands or grounds near the middle or centre of highways:' For remedy thereof, be it enacted, That if any person shall encroach by making or causing to be made any hedge ditch or other fence on any highway not being turnpike road within the distance of fifteen feet from the middle or centre thereof, or shall plough harrow or break up the soil of any land or ground, or in ploughing or harrowing the adjacent lands shall turn his plough in or upon any land or ground within the distance of fifteen feet from the middle or centre of any highway where the breadth of such highway is formed and marked or described with certainty and does not exceed in breadth thirty feet, every person so offending shall forfeit for every such offence forty shillings to such person who shall make information of the same; and it shall be lawful for the surveyor who hath the care of any such road to cause such hedge ditch or fence to be taken down or filled up at the expence of the person or persons to whom the same shall belong; And it shall and may be lawful for any one or more justice or justices of the peace of the limit where such offence shall be committed, upon proof to him or them made upon oath, to levy as well the expences of taking down such hedges as aforesaid as the several and respective

No. L
13 Geo. III.
c. 78.

Justices may hold and adjourn Special Sessions, &c.

Alehouses, &c. not to be kept on Bridges where Tolls are taken.

Penalty for encroaching on Highways.

(19.) The reference to particular limits is only directory. Any Justice of the County may exercise the Powers of the Act in any Part of it. See *Welch v. Nash*, 8 L. 399.

(20.) The 13 Geo. 3. c. 78. § 62. is applicable to proceedings by order of two Justices under 55 Geo. 3. c. 68. § 2. Held, therefore, that it is necessary to give reasonable notice of the

special Sessions, at which any such Order is to be made, to the several Justices acting and residing within the divisions; and that unless such notices be given, the Sessions ought not to confirm and enrol such Order, even though there be no appeal against it. *Rex v. Worcestershire (Justices)*, 2 B. & A. 228.

No. I.

13-Geo. III.
c. 78.Court may
award Costs.Expences for
Prosecutions,
agreed upon at
a Vestry Meet-
ing, how to be
paid.Notice required
for publick
Meetings.Sums assessed
may be levied.Surveyor may
be a Witness.Forms of Pro-
ceedings.

penalties hereby imposed by distress and sale of the offender's goods and chattels in such manner as distresses and sales for forfeitures are authorised and directed to be levied by virtue of this Act.

LXIV. And be it further enacted, That it shall and may be lawful for the court before whom any indictment or presentment shall be tried (21.) for not repairing highways to award costs (22.) to the prosecutor to be paid by the person or persons so indicted or presented, if it shall appear to the said court that the defence made to such indictment or presentment was frivolous; or to award costs to the person indicted or presented, to be paid by the prosecutor, if it shall appear to the said court that such prosecution was vexatious.

LXV. And be it further enacted, That if the inhabitants of any parish township or place shall agree at a vestry or publick meeting to prosecute any person by indictment for not repairing any highway within such parish township or place which they apprehend such person was obliged by law to repair, or for committing any nuisance upon any highways, or shall agree at such vestry meeting to defend any indictment or presentment preferred against any such parish township or place, it shall and may be lawful for the surveyor of such parish township or place to charge in his account the reasonable expences incurred in carrying on or defending such respective prosecutions after the same shall have been agreed to by such inhabitants at a vestry or publick meeting or allowed by a justice of the peace within the limit where such highway shall be; which expences when so agreed to or allowed shall be paid by such parish township or place out of the fines forfeitures compositions payments and assessments authorised to be collected and raised by virtue of this Act.

LXVI. And be it further enacted, That in all cases where a vestry or publick meeting of the inhabitants of any parish township or place is authorised or directed by this Act, there shall be publick notice given of the day hour and place of holding the said meeting, at the church or chapel of such parish township or place on the *Sunday* next preceding such meeting, and also notice thereof in writing specifying the purpose of such meeting fixed at the same time upon the door of such church or chapel, and the same shall not be held till three days at least after such notice given; and if there be no church or chapel the like notice of such meeting shall be given in writing and put up at the most publick place therein three days at least before such meeting.

LXVII. And be it further enacted, That if any person shall refuse or neglect to pay the sum or sums assessed upon him by any assessment to be made in pursuance of this Act within ten days after demand thereof made, the same shall and may be levied by the surveyor or any other person or persons authorised by warrant under the hand and seal of one justice of the peace having jurisdiction therein by distress and sale of the goods and chattels of the person so refusing or neglecting, rendering the overplus to the owner or owners thereof, the necessary charges of making such distress and sale being first deducted; and in default of such distress it shall be lawful for any such justice to commit the person so refusing or neglecting to the common gaol, there to remain until he shall have paid the sum so assessed and the costs and charges occasioned by such neglect or refusal.

LXVIII. And be it further enacted, That the surveyor of any parish township or place shall be deemed in all cases a competent witness in all matters relative to the execution of this Act, notwithstanding his salary may arise in part from the forfeitures and penalties hereby inflicted.

LXIX. And be it further enacted, That the forms of proceedings relative to the several matters contained in this Act which are set forth and expressed in the schedule hereunto annexed (23.) shall be used upon

(21.) If the Case is tried at Nisi Prius, the Power can be only exercised by the Judge at Nisi Prius, and not by the Court of B. R. R. v. Chadderton, 5 T. R. 272.

(22.) A Certificate that the Defence was fri-

volous is a sufficient Award of Costs. R. v. Clifton, 6 T. R. 344.

(23.) This is imperative: see Davidson v. Gill, 1 East, 64: referred to ante, Sec. 16.

all occasions with such additions or variations only as may be necessary to adapt them to the particular exigencies of the case; and that no objection shall be made or advantage taken for want of form in any such proceedings by any person or persons whomsoever.

LXX. 'And in order to have the contents of this Act more generally communicated and known,' Be it further enacted, That the justices of the peace within their respective limits shall at every special sessions to be held in the week next after the *Michaelmas* general quarter sessions of the peace procure and deliver or cause to be procured and delivered a printed abstract of the most material parts of this Act to every surveyor to be then appointed by them respectively as the charge hereby directed to be given; and shall also at their said special sessions to be held in the year one thousand seven hundred and seventy-three deliver or cause to be delivered to every of the said surveyors one other of the said printed abstracts of this Act for the use of the parish township or place for which the said surveyor shall be appointed; which last-mentioned abstract the said surveyors are hereby respectively ordered and required to fix on the church or chapel door or other publick place within their respective liberties on the next *Sunday* after they shall so receive the same; and the said surveyors shall severally pay to the said justices' clerks the sum of six pence for each of the said last-mentioned printed abstracts.

LXXI. And be it further enacted, That in case any person or persons shall resist or make forcible opposition against any person or persons employed in the due execution of this Act; or make any rescue of the cattle or other goods distrained by virtue of this Act; or if any constable headborough or tythingman shall refuse or neglect to execute or obey any warrant or precept granted by any justice of the peace pursuant to the directions of this Act; every such person offending therein and being convicted thereof by a justice of the peace shall for every such offence forfeit any sum not exceeding ten pounds nor less than forty shillings at the discretion of the justice before whom he or she shall be so convicted; to be paid to the surveyor of the highways for the parish township or place where the offence was committed, to be laid out in the repair of the highways: and in case he or she do not forthwith pay or secure to be paid the said forfeiture after such conviction, then it shall and may be lawful for such justice of the peace to commit such person or persons to the common gaol or house of correction of the limit where such offence shall be committed, there to remain for any time not exceeding three months unless the said forfeiture shall be sooner paid.

LXXII. And be it further enacted, That all penalties and forfeitures by this Act imposed for any offence against the same and all costs and charges to be allowed and ordered by the authority of this Act (the manner of levying and recovering of which is not hereby otherwise particularly directed) shall be levied by distress and sale of the goods and chattels of the offender or person liable or ordered to pay the same respectively by warrant under the hand and seal of some justice of the peace for the limit where such offence neglect or default shall happen or such order for payment of such costs or charges shall be made, rendering the overplus of such distress (if any be) to the party or parties after deducting the charges of making the same; which warrant such justice is hereby empowered and required to grant upon conviction of the offender by confession or upon the oath of one or more credible witness or witnesses or upon order made as aforesaid; and the penalties and forfeitures when so levied shall be paid the one half to the informer and the other half to the surveyor of the highway where such offence neglect or default shall happen; to be applied towards the repair thereof unless otherwise directed by this Act; but in case the surveyor shall be the informer then the whole shall be employed towards the repair of such highway: and in case such distress cannot be found and such penalties and forfeitures or the said costs and charges shall not be forthwith paid, it shall and may be lawful for such justice and he is hereby authorised and required by warrant under his hand and seal to commit such offender or offenders or person or persons liable to pay the same respectively to the common

No. I.

13 Geo. III.
c. 78.

Printed Abstracts to Surveyors.

One to be fixed on the Church Door.

Persons resisting the Execution of this Act, or Constables refusing to obey, &c. forfeit not exceeding 10*l*. nor less than 40*s*.

Forfeitures, Costs, and Charges, may be levied.

In what Manner to be applied.

No. I.

23 Geo. III.
c. 78.

How to proceed
when the Of-
fender lives
within another
Jurisdiction.

Warrant of
Distress when
to be issued.

Prosecutor to
proceed by In-
formation, or
by Action.

Within what
Time Actions
are to be com-
menced, &c.

Convictions.

Inhabitant a
good Witness.

Justice may ad-
minister Oaths.

Satisfaction re-
coverable for
Special Da-
mages, &c.

gaol or house of correction of the limit where the offence shall be committed or such order as aforesaid shall be made for any time not exceeding three months unless the said penalty forfeiture costs and charges shall respectively be sooner paid; and if such offender or offenders or person or persons liable or ordered to pay the same respectively shall live out of the jurisdiction of the justice hereby authorised to grant such warrant, it shall and may be lawful for any justice of the peace of the limit wherein such person shall inhabit and every such justice is hereby required, upon request to him for that purpose made and upon a true copy of the conviction whereby such forfeiture or penalty was incurred and of the order for the payment of such costs and charges produced and proved by a credible witness upon oath, by warrant under his hand and seal to cause the penalty or forfeiture mentioned in such conviction and the costs and charges mentioned in such order or so much thereof as shall not have been paid to be levied by distress and sale of the goods and chattels of such offender or offenders or person or persons liable or ordered to pay the same respectively as aforesaid; and if no sufficient distress can be had to commit such offender or offenders or person or persons liable as aforesaid to the common gaol or house of correction of such limit for the time and in manner aforesaid.

LXXIII. Provided nevertheless, That no warrant of distress unless otherwise directed by this Act shall be issued for levying any penalty or forfeiture costs or charges until six days after the offender shall have been convicted and an order made and served upon him or her for payment thereof.

LXXIV. Provided also and be it further enacted, That every prosecutor or informer may at his election sue for and recover any forfeiture or penalty imposed by this Act which shall amount to the sum of forty shillings or upwards (the manner of recovery thereof not being particularly directed by this Act), either in the manner herein-before directed or by action at law to be brought by such informer or prosecutor in any of his Majesty's courts of record in manner following; (that is to say) Where any person shall be liable to any such pecuniary penalty it shall and may be lawful to sue for and recover the same by action of debt, in which it shall be sufficient to declare that the defendant is indebted to the plaintiff in the sum of being forfeited by an Act passed in the thirteenth year of the reign of his present Majesty, intituled "An Act to explain amend and reduce into one Act of Parliament the Statutes now in being for the Amendment and Preservation of the publick Highways within that Part of *Great Britain* called *England*, and for other Purposes;" and the plaintiff if he recovers in any such actions shall have double costs.

LXXV. Provided, That there shall not be more than one recovery for the same offence; and that ten days' notice in writing be given to the party offending previous to the commencement of such action; and that the same be brought and commenced within one calendar month after the offence for which such action is brought shall have been committed.

LXXVI. Provided also and be it further enacted, That no conviction shall be had or made by virtue of this Act unless upon confession of the party accused or upon the oath of one or more credible witness or witnesses or upon the view of a justice of peace in the cases before mentioned; and that any inhabitant of any parish township or place in which any offence shall be committed contrary to this Act shall be deemed a competent witness notwithstanding his or her being an inhabitant of such parish township or place.

LXXVII. And be it further enacted, That it shall and may be lawful for any justice of the peace to administer an oath to any witness or witnesses or other person or persons, for the better discovery and execution of the several matters or things herein-before authorised or directed to be examined inquired into or performed by such justice.

LXXVIII. And be it further enacted, That where any distress shall be made for any sum or sums of money to be levied by virtue of this Act, the distress itself shall not be deemed unlawful nor the party or par-

ties making the same be deemed a trespasser or trespassers on account of any default or want of form in any proceedings relating thereto, nor shall the party or parties distraining be deemed a trespasser or trespassers *ab initio* on account of any irregularity which shall be afterwards done by the party or parties distraining, but the person or persons aggrieved by such irregularity may recover full satisfaction for the special damage in an action on the case.

LXXXIX. Provided always, That no plaintiff or plaintiffs shall recover in any action for any irregularity trespass or wrongful proceedings, if tender of sufficient amends shall be made by or on the behalf of the party or parties who shall have committed or caused to be committed any such irregularity trespass or wrongful proceedings, before such action brought; and in case no such tender shall have been made, it shall and may be lawful for the defendant in any such action, by leave of the court where such action shall depend, at any time before issue joined to pay into court such sum of money as he or they shall see fit, whereupon, such proceedings or orders and judgment shall be had made and given in and by such court as in other actions where the defendant is allowed to pay money into court.

LXXX. Provided also and be it further enacted, That if any person shall think himself or herself aggrieved by any thing done by any justice or justices of the peace or other person in the execution of any of the powers given by this Act, and for which no particular method of relief hath been already appointed; (24.) every such person may appeal to the justices of the peace at any general quarter sessions of the peace to be held for the limit wherein the cause of such complaint shall arise, such appellant giving or causing to be given notice (25.) in writing of his or her intention to bring such appeal and of the matter thereof to the justice or other person or persons against whom such complaint shall be made within six days after the cause of such complaint arose, and within four days after such notice entering into recognisance before some justice of the peace within such limit, with one sufficient surety conditioned to try such appeal at and abide the order of and pay such costs as shall be awarded by the justices at such quarter session; and every justice of the peace and other person having received notice of such appeal as aforesaid shall return all proceedings whatsoever had before them respectively touching the matter of such appeal to the said justices at their general quarter sessions aforesaid on pain of forfeiting five pounds for every such neglect; and the said justices at such sessions upon due proof of such notice being given as aforesaid and of the entering into such recognisance shall hear and finally determine the causes and matters of such appeal in a summary way, and award such costs to the parties appealing or appealed against as they the said justices shall think proper; to be levied and recovered as herein-before directed; and the determination of such quarter session shall be final and conclusive to all intents and purposes; and that no proceedings to be had or taken in pursuance of this Act shall be quashed or vacated for want of form or removed by *certiorari* or any other writ or process whatsoever (except as herein-before mentioned) into any of his Majesty's courts of record at Westminster, any law or statute to the contrary notwithstanding: Provided, That no such appeal shall be made against any conviction for any penalty or forfeiture incurred by virtue of this Act, unless the person convicted shall at the time of such conviction if he or she shall be then present, if not within six days after, give notice of his or her intention to appeal, and at the same time enter into recognisance with sufficient sure-

No. I.
13 Geo. III.
c. 78.

Plaintiffs not to recover for irregularity, if Tender has been made.

Appeal.

Proceedings not quashed for Want of Form, nor removable, &c.

(24.) This Clause does not take away the Right of Replevin where Goods are taken for Non-payment of an Assessment out of the Parish, &c. *Fenton v. Bayle*, 2 N. R. 399.

(25.) The Notice of Appeal required by 13 Geo. 3. c. 78. § 80. against a Distress for non-payment of a Highway Rate, may be within Six

Days after the Levy, and need not be within Six Days after the granting the Warrant of Distress. The Notice of Appeal need not disclose the ground upon which the Appellant objects to the regularity of Distress. *Rex v. Devon (Justices)*, 1 M. & S. 411.

No. I.
13 Geo. III.
c. 78.

Limitation of
Actions.

General Issue.

Treble Costs.

ties to pay such penalty or forfeiture in case such conviction shall be affirmed upon such appeal; and upon his or her giving such security, the further proceeding for such penalty or forfeiture shall be suspended until such appeal shall be heard and determined.

LXXXI. And be it further enacted, That if any action or suit shall be commenced against any person or persons for any thing done or acted in pursuance of this Act, then and in every such case such action or suit shall be commenced or prosecuted within three calendar months after the fact committed (26.) and not afterwards; and the same and every such action or suit shall be brought within the county where the fact was committed and not elsewhere; and the defendant or defendants in every such action or suit shall and may plead the general issue and give this Act and the special matter in evidence at any trial to be had thereupon, and that the same was done in pursuance and by the authority of this present Act: and if the same shall appear to have been so done, or if any such action or suit shall be brought after the time limited for bringing the same, or be brought or laid in any other place than as aforementioned, then the jury shall find for the defendant or defendants; or if the plaintiff or plaintiffs shall become nonsuit or discontinue his her or their action after the defendant or defendants shall have appeared, or if upon demurrer judgment shall be given against the plaintiff or plaintiffs, the defendant or defendants shall and may recover treble costs and have the like remedy for recovery thereof as any defendant or defendants hath or have in any other cases by law.

LXXXII. And be it further enacted, That this Act shall commence and take place with respect to the assembling of the householders and others and the making and delivering of lists of persons qualified to serve the office of surveyor and the giving notices to the persons contained in such lists upon the twenty-first day of *September* one thousand seven hundred and seventy-three; and with respect to all the other matters and things herein contained on the eleventh day of *October* one thousand seven hundred and seventy-three.

7 Geo. 3. re-
pealed.

LXXXIII. 'And to the intent that there may be only one law subsisting for the several purposes aforesaid,' Be it further enacted and declared, That from and after the tenth day of *October* one thousand seven hundred and seventy-three, an Act passed in the seventh year of the reign of his present Majesty, intituled "An Act to explain amend and reduce into one Act of Parliament the several Statutes now in being for the Amendment and Preservation of the publick Highways of this Kingdom and for other Purposes therein mentioned," except so much thereof as repeals the several Acts and parts of Acts therein mentioned which are not revived by an Act passed in the eighth year of the reign of his present Majesty, intituled "An Act to explain amend and render more effectual an Act passed in the seventh year of his present Majesty's reign, intituled 'An Act to explain amend and reduce into one Act of Parliament the several Statutes now in being for the Amendment and Preservation of the publick Highways of this Kingdom and for other Purposes therein mentioned,'" shall be and the same is hereby repealed.

8 Geo. 3. c. 5.

LXXXIV. Provided nevertheless, That the several surveyors appointed under the authority of the said Act passed in the seventh year of the reign of his present Majesty shall produce such books and lists and pass their accounts before the justices at their respective special sessions to be holden within their respective limits in the week next after the *Michaelmas* quarter sessions in the year one thousand seven hundred and seventy-three, and pay the balances thereof in such manner as they ought to have done at the special sessions which was by the said Act to have been held on the first *Monday* in *October* or within fifteen days after; and if the justices shall appoint any surveyor or surveyors under the authority of the said Act such appointment shall be void and of no effect.

(26.) An Action on the Case for weakening the Foundation of a Wall, whereby it fell, may be brought within Three Months after the consequential Damage which is the Cause of Action. *Roberts v. Read*, 16 E. 215.

LXXXV. Provided always and be it further enacted by the authority aforesaid, That nothing in this Act contained touching the making and returning lists of persons qualified to be surveyors of the highways and the appointment of such surveyors, nor the repeal of part of an Act made in the third year of King *William* and Queen *Mary* relating to such surveyors, shall extend or be construed deemed or taken to extend to the city of *Bristol*; but that the several Acts of Parliament which have been passed previous to this Act relative to surveyors of the highways and to cleansing paving lighting and regulating the streets and other places within the said city shall remain in full force and be executed in as full and ample manner and form to all intents and purposes as the same might or ought to have been if this Act had never been made.

LXXXVI. Provided also, That nothing in this Act contained shall extend or be deemed or construed to extend to the parish of *Saint Mary Matfelon* otherwise *Whitechapel* and *Saint John of Wapping* in the county of *Middlesex* or either of them.

LXXXVII. Provided always and be it further enacted, That nothing in this Act contained shall extend or be deemed or construed to extend to alter restrain or abridge the powers or authorities given to the commissioners of sewers by any Act or Acts of Parliament whatsoever, or to vary or alter any of the provisions or regulations thereby made directed or provided; any thing herein contained to the contrary thereof in any wise notwithstanding.

No. I.

13 Geo. III.
c. 78.

Exceptions re-
lative to Bris-
tol;

and Saint Mary
Matfelon, &c.

Powers of Com-
missioners of
Sewers not
abridged.

The SCHEDULE (stating the Forms) to which this Act refers.

No. I. Warrant for calling the Meeting of the Householders, &c. and for fixing that of the Justices for appointing Surveyors.

Middlesex. To the Constables, Headboroughs, and Tithingmen, within the (Hundred) Riding) Liberty) or Precinct) as the case shall be) of the said County.

IN order to carry into execution an Act made in the thirteenth year of the reign of his Majesty King *GEORGE* the Third for the Amendment and Preservation of the publick Highways, you are hereby severally required forthwith to give publick notice to the churchwardens surveyors of the highways and householders being assessed to any parochial or publick rate within your respective liberties, that they do assemble on the twenty-second day of *September* next at the church or chapel, or if there shall be no church or chapel then at the usual place of publick meetings within their respective liberties at the hour of eleven in the forenoon; and that the major part of them so assembled do make a list of the names of at least ten persons living therein who each of them have an estate in lands tenements or hereditaments lying within the same, in their own right or in right of their wives of the value of ten pounds by the year; or a personal estate of the value of one hundred pounds; or are occupiers or tenants of houses lands tenements or hereditaments of the yearly value of thirty pounds: and if there shall not be ten persons having such qualifications, then that they do insert in such list the names of so many of such persons as are so qualified, together with the names of the most sufficient and able inhabitants not so qualified as shall make up the number ten if so many can be found, if not, so many as shall be there resident to serve the office of surveyor of the highways: and you are also severally required within three days after making the said list to deliver a copy thereof to one of the justices of peace of the said (*hundred riding*) division, &c.) as the case shall be) living in or near the same (*parish, &c.*) and also to give personal notices to or cause notices in writing to be left at the places of abode of the several persons contained in such list informing them of their being so named, to the intent that they may severally appear before the said justices at their special sessions to be holden at within the said (*hundred, &c.*) on the

No. I.

18-Geo. III.
c. 78.

day of

now next ensuing, at the hour of

in the forenoon of the same day, to accept such office if they shall be appointed thereto, or to shew cause if they have any against their being appointed; and you are likewise to give notice to the present surveyors of the highways within your respective liberties to appear at the same time and place and produce such accounts and lists before the said justices as are required by the said Act; and you and each of you are personally to appear before the said justices at their said special sessions and then and there severally deliver to the said justices the said original list or lists taken within your respective liberties and give an account of the execution of this our precept.

Given under our hands and seals, the

day of

in

the year of our Lord, 17

No. II. List of Persons to be returned to the Justices.

A List of the several Persons named for Surveyors of the Highways for the (insert the name of the Parish, Township or Place) at a Meeting held at

Day of

17

A. B.

C. D. &c.

This is to be added when a particular Person is recommended.

WE whose names are subscribed, being two parts in three of the persons assembled at the meeting aforesaid, do agree in the choice of A. B. as a fit person to serve the office of surveyor for the (insert the parish, &c.) aforesaid, and in the allowance to him of for his trouble in executing the same for the year ensuing; and we do recommend the said A. B. to the justices for their appointment accordingly.

No. III. Notice to the Persons contained in the List.

A. B. take notice, That you was at a Meeting held at (insert the name of the parish, &c.) on the day of named as one of the persons to be returned to the justices as fit to serve the office of surveyor for the said (parish, &c.) for the year ensuing; and if you have any cause to shew why you should not be appointed to serve such office you must make the same appear before the justices at their special sessions to be holden at on the day of next.

A. B. { Constable,
Headborough, or
Tithingman,
(as the case shall be.)

No. IV. Order to the (Constable, &c.) to return to the Justices the Amount of a Sixpenny Assessment.

Middlesex.

To the (Constable, &c.) of

YOU are hereby required to return to us and the other Justices to be assembled at the special sessions to be held at for the (hundred, &c.) of in the said county, on the day of next, the amount of the last assessment of six pence in the pound for the use of the highways within your liberty, if any such has been raised; if not, what you apprehend from the best information you can get an equal assessment of six pence in the pound upon all and every the occupiers of lands tenements woods tithes and hereditaments within the said liberty according to their yearly value will amount to.

Given under our hands this

day

17

No. V. Return to the Justices of the Amount of a Six-penny Assessment.

To the Justices assembled at their Special Sessions at

Day of

17

the

No. 1

13 Geo. III.

c. 78.

IN obedience to your order I do return and certify, That the last assessment of six pence in the pound for the use of the highways within the liberty of amounted to the sum of

(If no Assessment of Six Pence in the Pound hath been made, then as under.)

IN obedience to your order I do return and certify, That no assessment hath been made of six pence in the pound for the use of the highways within the liberty of but I apprehend from the best information which I have been able to get that an equal assessment of six pence in the pound upon all the occupiers of lands tenements woods tithes and hereditaments within the said liberty will amount to the sum of

A. B. (Constable, &c.)

No. VI. Appointment of a Surveyor.

Middlesex. At a Special Sessions held at

Hundred of

by Justices of the Peace for the said

in the

County, acting within the said Hundred, on the

Day of

17

WE do hereby nominate and appoint A. B. &c. of (insert the name of the parish, &c. where he lives) in the said hundred Surveyor (or Surveyors of the Highways within the said (parish, &c.) for the year ensuing, (and we do allow the said A. B. the salary of for his trouble); and you the said A. B. are faithfully and truly to execute the said office of surveyor according to the directions of the statute passed in the thirteenth year of the reign of his Majesty King George the Third, "For the Amendment and Preservation of the Highways," an abstract of the material parts of which statute is hereunto annexed.

This is to be inserted when a Surveyor is appointed with a Salary,

Given under our hands and seals the day and year above mentioned.

No. VII. Bond from the Surveyor.

WE A. B. Surveyor of the Highways for the (parish, township, &c.) of and C. D. of are

bound to E. F. of aforesaid, in the sum of pounds, to be paid to the said E. F. his executors administrators or assigns; for which payment we hereby bind ourselves severally, and each of our heirs executors and administrators.

Dated the

day of

17

The condition of this bond is such that if the said A. B. his executors or administrators shall duly and faithfully account for apply and pay all and every the sum and sums of money which shall come to his hands as Surveyor of the Highways for the (parish, &c.) according to the direction and true intent and meaning of the statute made in the thirteenth year of the reign of his Majesty King George the Third, "For the Amendment and Preservation of the Highways," then this bond to be void or else to remain in full force.

No. VIII. Appointment of an Assistant to the Surveyor.

Middlesex. At a Special Sessions held at

Hundred of

by Justices of the Peace for the said

in the

County acting within the said Hundred, on the

Day of

17

WE do hereby nominate and appoint C. D. a substantial inhabitant of the (parish, &c.) of in the said hundred Assistant to A. B. whom we have appointed Surveyor of the Highways

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c. 78.

for the said (*parish*, &c.); and you the said C. D. are to the best of your skill and judgment to assist the said Surveyor whenever requested by him, in calling in and attending the performance of the statute duty, in collecting the compositions fines penalties and forfeitures, and in making and collecting the assessments, and in making out and serving the notices authorised by the Act passed in the thirteenth year of the reign of his Majesty King *George* the Third, "For the Amendment and Preservation of the Highways," and in such other matters and things as shall be reasonably required of you by the said Surveyor in the execution of his office of Surveyor pursuant to the said Act; and you are justly and truly to account with and pay to the said Surveyor or to his order the money which shall come to your hands by the means aforesaid.

Given under our hands and seals the day and year above mentioned,

No. IX. Oath to be administered to the Surveyor upon passing his Accounts.

I *A. B.* do swear, That the Accounts now produced and delivered by me as Surveyor of the Highways for the (*parish*, &c.) of for the last year are just and true to the best of my knowledge.
So help me God.

No. X. Allowance of the Accounts,

October 17

THESE Accounts were examined and allowed before

No. XI. Notice from the Surveyor to remove Nuisances and Obstructions, and to cut Hedges, &c.

To C. D. of

To remove
Nuisances and
Obstructions.

IN pursuance of the directions given by the Act passed in the thirteenth year of the reign of his Majesty King *George* the Third, "For the Amendment and Preservation of the Highways," I *A. B.* Surveyor of the Highways for the (*parish*, &c.) of do hereby give you notice forthwith to remove the (*dung*) (*timber*) stone, &c. placed by you in a certain part of the King's highway lying between and in the (*parish*, &c.) of

To cut and
prune Hedges
and to cut or
prune Trees,
and to open and
scour Ditches
and Water-
courses.

to the obstruction and annoyance of the said highway: or, (forthwith to cut prune and plash the hedges and cut or prune the trees, and to open cleanse and scour the several ditches and watercourses belonging to you) in or near the highway, lying between and in the (*parish*, &c.) of to the intent that the water may be drained from the said highway, and that the sun and wind may not be excluded from such highway to the prejudice thereof.

Dated this

day of

17

A. B.

No. XII. Allowance of Charges and Expences paid by Surveyors, which are to be repaid by the Possessors of the Lands, &c. and Order of the Justice for that Purpose.

Middlesex. WHEREAS complaint hath been made unto me *A. B.* Esquire, one of his Majesty's Justices of the Peace of the said county, by the oath of Surveyor of the Highways for the parish of in the said county, that C. D. of having had due notice to cut and prune his hedges, and cleanse and scour his ditches and watercourses within or adjoining to the publick highway between and in the said parish of hath neglected to do the same within the time required by such notice, and that the said hath caused the same respectively to be cut pruned cleansed and scoured pursuant to the directions of this Act, passed in the thirteenth year of the reign of his Majesty King *George* the Third, "For the Amendment and Preservation of the Highways," and hath expended therein the sum of

as appears by an account now produced to me which I think a reasonable charge, and do therefore allow the same, and hereby order the said C. D. to pay the said sum of _____ to the said _____ within six days from the time of his being served with this order.

Given under my hand and seal, this _____ day of _____ 17

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13 Geo. III.
c. 78.

No. XIII. Order of a Justice of Peace to make new Drains.

Middlesex. To C. D. of _____ Surveyor of the Highways for the
(Parish, &c.) of _____

WHEREAS complaint hath been made to me A. B. Esquire, one of his Majesty's Justices of the Peace for the said county, that the ditch gutter or watercourse for conveying the water from the highway at _____ in the (parish, &c.) of _____ in the said county is not sufficient for that purpose, and that the cleansing and opening the same will not effectually carry off the said water, but that the said highway may be effectually drained and the water carried off by making a new ditch or drain through the lands or grounds of _____ lying near the same for the length of _____ yards, and the breadth of _____ feet; and the said _____ having been duly summoned to appear before me, to shew cause if he had any why the said ditch or drain should not be made, and the said _____ not appearing, or (not shewing sufficient cause against the same,) and it appearing to me that such ditch or drain is necessary, I do hereby order and require you to enter into and upon the said lands of the said _____ and there make or cause to be made a new ditch or drain of the length and breadth aforesaid, and of a convenient depth, making or tendering sufficient satisfaction to the said _____ for the damages to be done thereby, within one calendar month after the same shall be so made; such damages to be settled and ascertained in manner directed by the Act passed in the thirteenth year of the reign of his Majesty King George the Third, "For the Amendment and Preservation of the Highways."

Given under my hand, this _____ day of _____ 17

No. XIV. Notice of Application to be made for an Assessment.

Middlesex. NOTICE is hereby given, That application will be made to the Justices of the Peace acting for the (hundred) of _____ in the said county, at their Special Sessions, to be held at _____ in the said (hundred), on the _____ day of _____ one thousand seven hundred _____ for an equal assessment to be made, not exceeding _____ in the pound, upon all and every the occupiers of lands, tenements, woods, tithes, and hereditaments, within the (parish, &c.) of _____ for the use and benefit of the highways, within the said (parish, &c.)

Dated this _____ day of _____ 17
A. B. Surveyor.

No. XV. Order at a Special Sessions for an Assessment of Six Pence in the Pound.

Middlesex. At a Special Sessions for the Highway, held at _____ in the Hundred of _____ in the said County, the _____ Day of _____ 17 by Justice of Peace for the said County acting within the said Hundred.

UPON application made to us by the Surveyor of the Highways for the (parish, &c.) of _____ and upon evidence given upon oath before us, (that the duty directed to be performed and the money authorised to be collected and received by an Act passed in the thirteenth year of the reign of his Majesty King George the Third, "For the Amendment and Preservation of the Highways," have been performed applied and ex-

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c. 78.

If no Assessment has been made for buying Materials, &c. this may amount to Nine Pence in the Pound; but if a Six-penny Assessment had been made before, it must be only Three Pence. These latter Words may be added here, if there have been no former Assessments for those Purposes.

pending according to the directions of the said Act:) or (We are fully satisfied that the common highways bridges causeways streets and pavements belonging to the (*parish, &c.*) of _____ are so far out of order, that they cannot be sufficiently amended and repaired paved cleansed and supported by the means prescribed by the said Act:) And it appearing to us, that notice has been duly given of such intended application according to the direction of the said Act, we do hereby order direct and appoint that an equal assessment, not exceeding the sum of _____ in the pound, upon all and every the occupiers of lands tenements woods tithes and hereditaments within the said (*parish, &c.*) of _____ shall be forthwith made by the said surveyor, and shall be allowed by one justice of the peace for the said hundred and shall be collected by the said surveyor, and that the money so to be assessed and collected shall be applied for and towards the amending repairing paving cleansing and supporting such highways causeways streets pavements and bridges (*and for buying materials, making satisfaction for damages, erecting gutters and paying the surveyor's salary,* according to the direction and true intent and meaning of the said Act.

A. B.
C. D.

No. XVI. Order of two Justices for [*widening*] or [*diverting and turning*] a Highway.

Middlesex. **WE**, _____ two of his Majesty's Justices of the Peace for the said county, acting within the (*hundred, &c.*) of _____ within the said county, having upon view found that a certain part of the highway between _____ and _____ in the (*parish, &c.*) of _____ in the said (*hundred*), for the length of _____ yards, or thereabouts, and particularly described in the plan hereunto annexed, is for the greatest part thereof narrow, and cannot be conveniently enlarged and made commodious for travellers, without diverting and turning the same; and having viewed a course proposed for the said new highway, through the lands and grounds of _____ and _____ of the length of _____ yards, or thereabouts, and of the breadth of _____ feet, or thereabouts, particularly described in the plan hereunto annexed, which we think will be much more commodious to the publick; we do hereby order, that the said highway be *diverted and turned* through the lands aforesaid; and that the Surveyor of the Highways for the (*parish, &c.*) of _____ where the said old highway lies, do forthwith proceed to treat and make agreement with the said _____ and _____ for the recompence to be made for the said ground, and for the making such ditches and fences as shall be necessary in such manner, with such approbation, and by pursuing such measures and directions in all respects, as are warranted and prescribed by the statute made in the thirteenth year of the reign of his Majesty King George the Third, "For the Amendment and Preservation of the Highways." And in case such agreement shall be made as aforesaid, we do order an equal assessment, not exceeding the rate of six pence in the pound, to be made, levied, and collected upon all and every the occupiers of lands, tenements, woods, tithes, and hereditaments, in the said (*parish, &c.*) of _____ and that the money arising thereupon be paid and applied in making such recompence and satisfaction, as aforesaid, pursuant to the directions of the said Act.

A. B.
C. D.

No. XVII. Certificate from the said Justices to the Court of Quarter Sessions.

This is to be wrote upon the above Order when no Agreement can be

To the Justices of the Peace, at their General Quarter Sessions, to be held at _____ in the said County, the _____ Day of _____ 17____
WE the within named A. B. and C. D. do hereby certify to the said Court of Quarter Sessions, that we made and signed the within order, and that with our approbation and by our direction the said Sur-

veyor hath treated with the said _____ and _____ for the said lands required for the purposes aforesaid, but was not able to make any agreement for that purpose with them, or either of them; and that he tendered to the said _____ the sum of _____ and to the said _____ the sum of _____ as a recompence for the said ground, and for the making the said ditches and fences, which they and each of them refused to receive.

A. B.
C. D.

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13 Geo. III.
c. 78.

No. XVIII. Order for stopping up the old Highway, and selling the Land and Soil thereof.

WE whose names are subscribed, being the Justices of the Peace who have viewed the several Highways described in the plans hereunto annexed, and made an order for diverting the old highway; and being satisfied that the new highway therein described is properly made, and fit for the reception of travellers, do hereby order the said old highway, being of the length of _____ yards, and of the breadth of _____ feet, upon a medium, as appears by the said plan, to be stopped up, and the land and soil thereof to be sold by the said Surveyor to whose land adjoins thereto, if he shall be willing to purchase the same, for the full value thereof, if not, to some other person or persons for the full value thereof: (reserving nevertheless to _____ a free passage for persons, horses, cattle, and carriages, through the land and soil of the said old highway to and from the (land, &c.) belonging to him, called _____ according to his ancient usage thereof.)

If there are more Highways than one to be stopped up, there should be a separate order for each.

This to be inserted where necessary, and to be varied as the Circumstances of the Case may require.

No. XIX. Certificate to be wrote under the Order above-mentioned.

WE, the above-named Justices, do certify, That the old Highway herein-before mentioned and described, was sold by the said Surveyor to _____ with our approbation, for the sum of _____ which sum we do order the said _____ to pay to the said surveyor, to be applied in purchasing the land, and making the said new highway; and if any surplus remains, we do order that the same shall be applied for the use of the highways within the said (parish, &c.) of _____

No. XX. Receipt for the Purchase-money to be indorsed upon, or wrote under, the Certificate above-mentioned.

RECEIVED the _____ day of _____ from the said _____ the sum of _____ being the full consideration-money for the purchase of the said old Highway herein-before described, pursuant to the said orders and certificate.

No. XXI. Order of two Justices for diverting and turning a (publick Highway, Bridleway, or Footway as the Case shall be) through the Lands of any Person who consents thereto.

Middlesex. WE, _____ and _____ Requires, two of his Majesty's Justices of Peace for the said county, at a special sessions held at _____ in the hundred of _____ in the said county, on the _____ day of _____ one thousand seven hundred _____ having, upon view, found, that a certain part of a (highway, &c.) within the (parish, &c.) of _____ in the said hundred, lying between _____ and _____ for the length of _____ yards or thereabouts, and particularly described in the plan hereunto annexed, may be diverted and turned so as to make the same nearer (or more commodious) to the Publick; and having viewed a course, proposed for the new highway, in lieu thereof, through the lands and grounds of _____ of the length of _____ yards, or thereabouts, and of the breadth of _____ feet, or thereabouts, particularly described in the plan hereunto annexed, and having received

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evidence of the consent of the said to the said new highway being made through his lands herein-before described, by writing under his hand and seal, we do hereby order that the said highway be diverted and turned through the lands aforesaid; and we do order an equal assessment, &c. (in the same form as before mentioned.)

No. XXII. Consent from the Owners of the Land through which a new Highway is proposed to be made.

I A. B. of in the county of being owner of the lands described in the plan hereunto annexed, through which part of a certain highway, lying between and is intended to be diverted and turned (in consideration of the sum of to be paid to me for the said land, and the soil thereof), or, (in consideration of said old Highway being sold, exchanged, and to be vested in me, and also the sum of to be paid to me, (as the case may be), do hereby consent to the making and continuing such new highway through my said lands.

Given under my hand and seal, this day of 17

No. XXIII. Licence from Justices of Peace, at a Special Sessions, to get Materials for the Repair of the Highways in another Parish, besides that wherein such Materials are to be employed.

Middlesex. At a Special Sessions, held at for the (Hundred) of in the said County, by Justices of the Peace for the said County, acting within the said (Hundred), on the Day of 17

IT appearing to us, upon evidence this day received, that sufficient materials cannot conveniently be had within the waste lands common grounds, rivers, or brooks, nor in the inclosed lands or grounds lying within the (parish, &c.) of A. in the said (hundred), for the repair of the highways within the said (parish, &c.) nor in the waste lands common grounds rivers or brooks within the (parish, &c.) of B. adjoining to the said (parish, &c.) of A. we do hereby give our licence to the surveyor for the said (parish, &c.) of A. to search for dig get and carry sand gravel chalk stone and other materials within the inclosed lands or grounds of C. D. within the said (parish, &c.) of B. to be employed in the repair of the highways within the said (parish, &c.) of A. it appearing from evidence laid before us that there are proper materials within the said lands for the purposes aforesaid lying convenient to the said highways; and that after such materials shall be so taken, there will be sufficient left for the use of the highways within the said (parish) of B. upon the said surveyors making satisfaction and recompence for the same in the manner directed by the Act passed in the thirteenth year of the reign of his Majesty King George the Third, "For the Amendment and Preservation of the Highways," subject to such restrictions as are therein contained.

Given under our hands and seals the day and year above written.

A. B.
C. D.

No. XXIV. Licence from a Justice of Peace, for a Surveyor to gather Stones upon inclosed Lands, for the Repair of the Highways.

Middlesex. To the Surveyor of the Highways for the (Parish) of in the (Hundred) of in the said County.

WHEREAS by an Act, passed in the thirteenth year of the reign of his Majesty King George the Third, "For the Amendment and Preservation of the Highways," the Surveyors are authorised to gather stones lying upon any lands or grounds within their liberty, for the use and benefit of the highways, but not without the consent of the occupiers of such lands, or a licence from a justice of peace for that purpose: And

whereas it appears to me, E. F. one of his Majesty's Justices of the Peace for the said county, and acting within the said (*hundred, &c.*) upon the oath of the said Surveyor, that he hath applied to A. B. of for his consent to gather stones from the lands called or known by the names of and in his occupation, within the said (*parish, &c.*) for the purposes aforesaid, and that the said stones are necessary for the repair of the said highways, and that the said A. B. hath refused to permit the same to be gathered; and the said A. B. having been duly summoned to appear before me, to shew cause why such permission should not be granted, and (*having appeared before me accordingly;*) or, (*having sent his steward or agent;*) or, (*C. D. on his behalf, to attend me on that occasion;*) or, (*but not having appeared;*) I have heard what has been alleged, and taken the said matter into consideration, and am of opinion that the said stones are necessary, and ought to be gathered and carried away for the purposes aforesaid; therefore I do hereby give my licence to the said Surveyor to take and carry away the same accordingly.

Given under my hand and seal, the day of 17

No. XXV. Notice to perform Statute-duty (to be given four Days before the Day on which the Duty is to be performed).

A. B. you are hereby required to send a team, with two able men, to within the (*parish, &c.*) of on the and days of next, at o'clock in the morning of each day, in order to perform such duty upon the highways within the said as shall be required by the Surveyor, pursuant to the direction of the Act, passed in the thirteenth year of the reign of his Majesty King George the Third, "For the Amendment and Preservation of the Highways." (*When personal labour is required*), you are hereby required, by yourself, or a sufficient labourer, to attend, &c.

If he does not occupy Lands, &c. of the yearly Value of 30*l.* in such Parish, &c. he is only to send one Man.

If a Waggon or a Cart with Two

Dated this day of 17

Horses, or one Horse only, is required, let it be expressed.

No. XXVI. Notice for Compositions.

NOTICE is hereby given, That all persons who are inclined to compound for their statute duty within the (*parish, &c.*) of are hereby required to signify their intention to compound for the same to the Surveyor of the Highways for the said (*parish, &c.*) at the house of of on the day of this instant *November*, between the hours of and and they are hereby required, at the same time, or within the space of one month after, to pay their composition-money to the said Surveyor; and also, that all persons who are liable to pay money for the lands, tenements, woods, tithes, and hereditaments, which they occupy, or in lieu of their duty within the (*parish, &c.*) according to the Act made in the thirteenth year of his Majesty King George the Third, "For the Amendment and Preservation of the Highways," are required to pay the same to the said Surveyor, on the day, or within the time aforesaid.

Dated this day of *November*, 17

A. B. Surveyor.

No. XXVII. Order for Statute-duty to be performed in Kind.

Middlesex. At a Special Sessions, held at in the (*Hundred*) of in the said County, the Day of 17 by Justices of the Peace for the said County, acting within the said (*Hundred*.)

IT appearing to us, from the information which we have received, that there will be difficulty in procuring the necessary (*carriage*), or (*a sufficient number of labourers*) (*as the case shall be*) for the repair of the highways within the (*parish, &c.*) of within the said (*hundred*) with-

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out paying high and extravagant prices for the same, we do hereby order and direct (the team duty within the said (*parish, &c.*) except such teams where the owners thereof do not occupy lands, tenements, woods, tithes or hereditaments within the said (*parish, &c.*) of the annual value of thirty pounds), or (one half of the team duty, &c.) or the labourers liable to perform statute duty within the said (*parish, &c.*) (as the case shall be) to perform statute duty in kind within the said (*parish, &c.*) according to the authority and directions of the Act, passed in the thirteenth year of the reign of his Majesty King George the Third, "For the Amendment and Preservation of the Highways."

No. XXVIII. Notice to the Surveyor, of the Times fixed by the Inhabitants for being excused from doing their Statute-duty.

To the Surveyor of the Highways for the (Parish, &c.) of _____ *in the County of* _____

I A. B. (*Constable*) *Tithingman*, of the said (*parish, &c.*) do hereby give you notice, That the inhabitants of the said (*parish, &c.*) did, at a vestry or publick meeting, held on the _____ day of _____ one thousand seven hundred _____ agree to take the benefit of the indulgence of three months, for not performing their statute duty, given by the legislature, in the Act passed in the thirteenth year of the reign of his Majesty King George the Third, "For the Amendment and Preservation of the Highways," at the times following, *videlicet*, That they shall not be called upon to perform such duty between the day of _____ and the day of _____ (which they consider as the seed month), nor between the day of _____ and the day of _____ (which they consider as the hay-harvest month), nor between the day of _____ and the day of _____ (which they consider as the corn harvest month). [The like notice to be given to the Surveyor or Surveyors of the turnpike roads, where there are any such within the (*parish, &c.*)]

No. XXIX. Order of the Justices at their Special Sessions, for the Repair of certain Highways which most want Repair.

Middlesex. At a Special Sessions, held at _____ in the (Hundred) of _____ in the said County, the _____ Day of _____ 17 _____ by Justices of the Peace for the said County acting within the said (Hundred.)

To the Surveyors of the Highways for the (Parish, &c.) of _____ *in the said (Hundred).*

IT appearing to us, That the Highway, lying between _____ and _____ within your liberty, is very sonnderous, and in bad repair, and being of great publick use, we do hereby order that you repair, or cause the same to be repaired, before the day of _____ next. Given under our hands and seals, this _____ day of _____ 17 _____

No. XXX. A Precept for erecting Guide Posts, &c.

Middlesex. At a Special Sessions, held at _____ for the (Hundred) of _____ in the said County, before Justices of the Peace for the said County, acting within the said (Hundred) on the _____ Day of _____ 17 _____

To the Surveyor of the (Parish) of _____ *in the said (Hundred).*

YOU are hereby required forthwith to erect or cause to be erected in the most convenient place upon the Highway lying between _____ and _____ within your liberty, where the roads cross or branch out, a guide-post with proper inscriptions painted on both sides thereof in large

legible letters denoting the towns of _____ and _____ (or other places as the justices shall think most proper.)

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[Where graduated Stones or Posts are necessary to prevent Accidents from deep Waters vary it as under:] (In the most convenient place upon the highway at the approach or entrance on each side of the ford or water called _____ at _____ within your (liberty) graduated posts denoting the depth of water in the deepest part thereof through which such highway passes; and you are allowed to charge the reasonable expenses of providing and erecting the same in your accounts.

A. B.
C. D.

No. XXXI. Notice for holding a Vestry, or other publick Meeting.

NOTICE is hereby given, That a vestry or publick meeting will be held at _____ on the _____ day of _____ next at the hour of _____ in the _____ noon, in order to consult about the times when it will be most convenient for the inhabitants of this (parish, &c.) to be excused from being called forth to perform their statute-duty according to the indulgence given them by the Act passed in the thirteenth year of the reign of his Majesty King George the Third, "For the Amendment and Preservation of the Highways."

Dated the _____ day of _____ '17

A. B. (Constable) Headborough, &c.

No. XXXII. Presentment by a Justice of Peace.

Middlesex. AT the General Quarter Sessions of the Peace of our Lord the King, held for the said county at _____ in the said county on (Tuesday) the _____ day of _____ in the _____ year of the reign of _____ before _____ Esquires and others their companions Justices of our said Lord the King assigned to keep the peace in the said county, and also to hear and determine divers felonies trespasses and other misdemeanors in the said county committed; A. B. Esquire, one of the Justices of our said Lord the King, assigned for the purposes aforesaid by virtue of an Act made in the thirteenth year of the reign of his Majesty King George the Third, "For the Amendment and Preservation of the Highways," (upon his own view), or (upon information upon oath to him given by C. D. surveyor of the highways for the (parish, &c.) of _____ in the said county doth present that from the time whereof the memory of man is not to the contrary there was and yet is a certain common and ancient King's highway leading from the town of _____ in the said (county, &c.) towards and unto _____ within the same (county,) used for all the King's subjects, with their horses coaches carts and carriages to go return and pass at their will; and that a certain part of the same King's common highway, commonly called _____ situate lying and being in the (parish, &c.) of _____ in the same (county), containing in length _____ yards, and in breadth _____ feet, on the _____ day of _____ in the _____ year of the reign of _____ and continually afterwards until the present day, was and yet is very ruinous deep broken and in great decay for want of due reparation and amendment, so that the subjects of the King through the same way with their horses coaches carts and carriages could not during the time aforesaid, nor yet can go return or pass as they ought and were wont to do to the great damage and common nuisance of all the King's subjects through the same highway going returning or passing, and against the peace of our said Lord the King; and that the inhabitants of the (parish, &c.) of _____ aforesaid in the (county) aforesaid, the said common highway (so in decay) ought to repair and amend when and so often as it shall be necessary.

This to be inserted where it is upon the Information of the Surveyor.

In testimony whereof, the said A. B. to these presents hath set his hand and seal this _____ day of _____ in the year aforesaid.

No. I.
15 Geo. III.
c. 78.

No. XXXIII. Summons for any Person or Persons to attend a Justice or Justices.

Middlesex.

To A. B. of

WHEREAS complaint and information hath been made upon oath before me C. D. one of his Majesty's Justices of the Peace for the said (county, &c.) by E. F. of

That, &c. (*here state the nature and circumstances of the case as far as it shall be necessary to shew the offence and to bring it within the authority of the justice, and in doing that follow the words of the Act as near as may be,*) These are therefore to require you personally to appear before me (or the justices to be assembled at their special sessions to be holden,) at

in the said (county, &c.) on the _____ day of

next, at the hour of _____ in the _____ noon, to

answer to the said complaint and information made by the said E. F. who is likewise directed to be then and there present to make good the same: Herein fail not.

Given under my hand and seal, this _____ day of _____ 17____

No. XXXIV. Information.

Middlesex. **B**E it Remembered, That on the _____ day of _____ 17____ A. B. of _____ in the said _____ county informeth and maketh oath before me _____ one of his

Majesty's Justices of the Peace for the said county, that _____ of _____ in the said county (*here describe the offence, and if it is for default for performing the statute-duty state the duty required and the notice given for that purpose and the neglect according to the fact, and as near the words of the Act as may be*), contrary to the statute made in the thirteenth year of the reign of his Majesty King George the Third, "For the Amendment and Preservation of the Highways," which hath imposed a forfeiture of _____ for the said offence.

A. B.

Taken and sworn the }
day of _____ before me }

No. XXXV. Form of Conviction.

Middlesex. **B**E it Remembered, That on the _____ day of _____ 17____ in the year of our Lord, 17____

at _____ in the county aforesaid, A. B. came before me C. D. Esquire, one of his Majesty's Justices of the Peace for the said county, and informed me that E. F. of _____ on the _____ day of _____ now last past, at _____ in the said county, did

(*here set forth the fact in the manner described by the statute*), whereupon the said E. F. after being duly summoned to answer the said charge appeared before me _____ on the _____ day of _____

at _____ in the said county, and having heard the charge contained in the said information, declared that he was not guilty of the said offence; but the same being fully proved upon the oath of G. H. a credible witness, it manifestly appears to me the said justice that he the said E. F. is guilty of the offence charged upon him in the said information: It is therefore considered and adjudged by me the said justice that the said E. F. be convicted, and I do hereby convict him of the offence aforesaid; and I do hereby declare and adjudge that he the said E. F. hath forfeited the sum of _____ of lawful money of Great Britain

for the offence aforesaid, to be distributed as the law directs, according to the form of the statute in that case made and provided.

Given, &c.

This to be inserted where the Party refuses to appear on the Summons.

After the words, "being duly summoned to answer the said charge," insert (did not appear before me pursuant to the said summons); or (did neglect and refuse to make any defence against the said charge, but the same being fully proved, &c.) as before.

After the words, "contained in the said information," insert (acknowledged and voluntarily confessed the same to be true, and it manifestly appears to me the said justice, &c.) as above.*

No. I.
13 Geo. III.
c. 78.

No. XXXVI. Warrant to distrain for the Forfeiture.

Middlesex. To the (Constable) Headborough) or Tithingman) of

WHEREAS A. B. of in the said county (yeoman) is this day convicted before me C. D. Esquire, one of his Majesty's Justices of the Peace in and for the said county, upon the oath of G. H. a credible witness, for the said A. B. hath [here set forth the offence, describing it particularly in the words of the statute as near as may be] contrary to the statute in that case made and provided, by reason whereof the said A. B. hath forfeited the sum of to be distributed as herein is mentioned, which he hath refused to pay: These are therefore in his Majesty's name to command you to levy the said sum of by distress of the goods and chattels of him the said A. B.; and if within the space of four days next after such distress by you taken, the said sum together with the reasonable charges of taking and keeping the same shall not be paid, that then you do sell the said goods and chattels so by you distrained, and out of the money arising by such sale that you do pay one-half of the said sum of to E. F. of who informed me of the said offence, and the other half of the said sum of to J. K. the surveyor of the highways for the (parish) township) or place) where the said offence (neglect) or (default) happened; to be employed towards the repair of the said highways, returning the overplus upon demand to him the said A. B. (the reasonable charges of taking keeping and selling the said distress being first deducted); and if sufficient distress cannot be found of the goods and chattels of the said A. B. whereon to levy the said sum of that then you certify the same to me together with this warrant.

* This is to be inserted when the Party accused confesses the Charge.

This is to be varied according to the Act, in each particular Case.

Given under my hand and seal, the day 17
C. D.

No. XXXVII. Return of the Constable to be made upon the Warrant of Distress when there are no Effects.

I A. B. Constable of the (parish, &c.) of in the (county) of do hereby certify and make oath, That by virtue of this warrant I have made diligent search for the goods of the within-named and that I can find no sufficient goods whereon to levy the within sum of as witness my hand the day of 17
A. B.

Sworn before me the day and }
year, &c. C. D. }

No. XXXVIII. Warrant of Distress for Non-payment of Money charged by an Assessment.

Middlesex. To the (Constable) Headborough) Tithingman) of in the said (County.)

WHEREAS by an assessment made upon the occupiers of lands, tenements, woods, tithes, and hereditaments, within the (parish, &c.) of in the said (county), for the purposes of, &c. [as stated in the justice's order], pursuant to an order of justices for that purpose, according to the directions of the Act, passed in the thirteenth year of the reign of his Majesty King George the Third, "For the Amendment and Preservation of the Highways," A. B. was charged the sum of as his share and proportion of the said assessment, in respect of the lands, tenements, woods, tithes, and hereditaments, which he occupied within the said (parish, &c.): And whereas it appears to me, upon the oath of that the said sum of hath been duly demanded from

No. I.
13 Geo. III.
c. 78

the said *A. B.*, and that he hath refused to pay the same for the space of ten days after such demand made, These are therefore, in his Majesty's name, to command you to levy the said sum of _____ by distress of the goods and chattels of the said *A. B.*, and if the same shall not be paid within the space of four days next after such distress by you taken, together with the reasonable charges of taking and keeping the same, that you do then sell the said goods and chattels so by you distrained; and out of the money arising by such sale, that you do pay unto *C. D.* the surveyor of the highways for said (*parish, &c.*) of _____ the said sum of _____ to be employed for the purposes aforesaid; and that you do return the surplus thereof to the said *A. B.* (the reasonable charges of taking keeping and selling, the said distress being first deducted); and if sufficient distress cannot be found of the goods and chattels of the said *A. B.* whereon to levy the said sum of _____ that then you certify the same to me, together with this warrant.

Given under my hand and seal, the

day of

17

No. XXXIX. Commitment for Want of Distress.

Middlesex. To the (Constable) of _____ in the said County, and to the Keeper of the Common Gaol (or, the House of Correction) at _____ in the said County.

WHEREAS *A. B.* of _____ in the said county (*yeoman*), was, on the _____ day of _____ convicted before me, *C. D.* Esquire, one of his Majesty's Justices of the Peace in and for the said county, upon the oath of *E. F.* a credible witness, for that he the said *A. B.* (*here set forth the offence*), contrary to the statute made in the thirteenth year of the reign of his Majesty King *George* the Third, "For the Amendment and Preservation of the Highways," by reason whereof the said *A. B.* hath forfeited the sum of _____ And whereas, on the _____ day of _____ in the year aforesaid, I did issue my warrant to the (*constable*) of _____ to levy the said sum of _____ by distress and sale of the goods and chattels of him the said *A. B.* and to distribute the same according to the directions of the said statute: And whereas it duly appears to me, upon the oath of the said (*constable*), that the said (*constable*) hath used his best endeavours to levy the said sum on the goods and chattels of the said *A. B.* as aforesaid, but that no sufficient distress can be had whereon to levy the same, These are therefore to command you, the said (*constable*) of _____ aforesaid, to apprehend the said *A. B.* and him safely to convey to the common gaol (or, *house of correction*), at _____ in the said county, and there deliver him to the keeper thereof, together with this precept; and I do hereby also command you, the said keeper, to receive and keep in your custody the said *A. B.* for the space of three months, unless the said sum shall be sooner paid, pursuant to the said conviction and warrant; and for so doing this shall be your sufficient warrant.

Given under my hand and seal, the _____ day of _____ in the year of our Lord 17 _____

day of

in the
C. D.

In the case of a commitment for the want of payment of money due by an assessment, it must be (to receive and keep in your custody, until he shall have paid the said sum of _____ and the further sum of _____ being the costs and charges occasioned by his neglect in paying the same.)

No. XL. Notice of Appeal to the Quarter Sessions.

A. *B.* take Notice, That I intend to appeal to the next General Quarter Sessions of the Peace to be holden for the (*county, &c.*) of _____ against an order (*conviction or other proceeding as the case may be, particularly specifying the purport of such order, &c., and assigning the grievance and cause of complaint.*)

Dated the _____

day of _____

17

C. D.

[No. II.] 34 George III. c. 64.—An Act for the more effectually repairing of such Parts of the Highways, of this Kingdom as are to be repaired by Two Parishes.—
[23d May 1794.]

No. II.
34 Geo. III.
c. 64.

34 Geo. III.
c. 64.

Two Justices
may determine
what Parts of
Highways lying
in two Parishes
shall be repaired
by each, &c.

WHEREAS the common highways in this kingdom are to be maintained and kept in repair (except in certain cases) by the inhabitants of the several parishes in which such common highways are situated; but it frequently happens that the boundaries of such parishes pass through the middle of such common highways, and one side of such highways is situated in one parish and the other side of such highways is situated in another parish, whereby great inconveniences have often arisen to such parishes in settling the time and manner of repairing and amending the same, and great detriment has arisen thereby to the public from the want of the due repair of such highways: For remedy thereof, be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That it shall and may be lawful for any two justices of the peace for any county riding or division upon complaint or application to them by any surveyor or any one of the surveyors of the highways of any parish (stating to such justices in writing and by a plan thereunto annexed that there is situated in the said parish and also in some other parish adjoining thereto specifying the same, a certain common highway particularly describing the same by metes bounds and admeasurement thereof, one side of which common highway ought to be made or repaired by one of such parishes and the other side thereof by the other of such parishes,) to issue their summons with a copy of such writing and plan thereunto annexed to the surveyor or one of the surveyors of the highways of such other parish, to appear before them on a day to be mentioned in such summons, not more than fourteen days nor less than seven days from the day of the date of such summons; and that in case the parties shall then appear before such justices they may then proceed finally to decide the matter in the manner herein-after mentioned in case all the parties shall consent thereto; but in case the surveyor summoned shall not appear on such first summons, or appearing shall require further time, the said justices shall adjourn the further consideration of the matter for any further time not more than twenty-one days nor less than fourteen days from the day of such adjournment, of which the surveyor not appearing shall have notice; on which day the said justices shall proceed to hear the parties and their witnesses, and whether the party summoned does or does not appear shall proceed to examine and finally determine the matter in form following: (that is to say,) That it shall and may be lawful for such justices and they are hereby required to divide the whole of such common highway by a transverse line crossing such highway into two equal parts or into two such unequal parts and proportions as in consideration of the soil, waters, floods, the inequality of such highway, or any other circumstances attending the same, they in their discretion shall think just and right; and to declare adjudge and order that the whole of such highway on both sides thereof in one of such parts shall be maintained and repaired by one of such parishes, and that the whole of such highway on both sides thereof in the other of such parts shall be maintained and repaired by the other of such parishes; and shall cause such their order and a plan of such highway and the allotment thereof as before mentioned to be fairly delineated on paper or parchment and filed with the clerk of the peace of the county in which such highway shall happen to lie, and shall also cause such posts stones or other boundaries to be placed and set up in such highway as in their judgment shall be necessary for ascertaining the division and allotment aforesaid.

II. And be it further enacted, That from and after such order and plan shall be so filed with the clerk of the peace as aforesaid, such parishes and the inhabitants thereof respectively shall be bound as of common

Parishes bound
to repair the
Parts so al-
lotted.

No. II.

84 Geo. III.
c. 64.

right to maintain and keep in repair such parts of such common highway so allotted to them as aforesaid, and shall be liable to be prosecuted and indicted for neglect of such duty, and shall in all respects whatsoever be liable and subject to all the provisions regulations and penalties contained in any Act or Acts of Parliament for the repair of the highways which are or shall be in force, in like manner as they are liable and subject to with respect to the repair of any other common highway within such parishes respectively and also shall be discharged from the repair of such parts of such highway as shall not be included in their respective allotments.

How Costs of
Proceedings
shall be defray-
ed, &c.

III. And be it further enacted, That all costs charges and expences to be incurred by reason of any of the proceedings before mentioned shall be borne and defrayed by such two parishes, the same being settled and ascertained by such two justices; and in case the said parties shall refuse or neglect to pay and discharge their respective share of such costs and expences, it shall and may be lawful for either of such justices or any other justice of the peace for the said county riding or division to levy the same by distress and sale, with the costs of such distress on the goods and chattels of any surveyor of the highways of the parish so refusing or neglecting to defray such costs and charges as aforesaid.

Boundary of
Counties, &c.,
not to be
changed, except
for the Purpose
aforesaid.

IV. And be it further enacted, That nothing in this Act contained shall extend of be construed to extend to affect change or alter in any manner whatsoever any boundaries of counties, lordships, hundreds, manors, or any other division of public or private property, nor the boundaries of any parishes otherwise than for the purpose of amending and keeping in repair such particular portion of the highways in the manner hereinbefore mentioned.

Act not to re-
late to High-
ways reparable
by Bodies Poli-
tic, &c., which
may however
on Consent be
put under the
Regulations of
it;

V. And be it further enacted, That nothing herein contained shall relate or be construed to relate to any highways, the repair of any part of which belongs to any bodies politic or corporate township or other such place, or to any private person or persons by the reason of tenure of any lands or otherwise howsoever, but that the same shall be construed to relate to such highways the repair of which belongs to parishes only: Provided always, That in case any such body politic or corporate township or other such place or any such private person or persons as aforesaid, or any other person or persons who shall be bound by law to repair one side of any part of any common highway, shall be desirous that the same should be placed under the regulations of this Act, and that a division and allotment thereof should be made according to the provisions thereof, and the parties who are bound to the repair of the other side of the said highway shall consent thereto, it shall and may be lawful for such two justices to make an order for the division and allotment of such highway; and such order when filed with the clerk of the peace shall have the like force and effect to all intents and purposes whatsoever, as is herein directed with respect to the like order where parishes only are concerned.

nor to extend
to Scotland.

VI. And be it further enacted, That this Act shall not be construed to extend to that part of *Great Britain* called *Scotland*:

Appeal may be
made to the
Quarter Ses-
sions.

VII. And be it further enacted, That it shall and may be lawful for either of the two parishes between whom any such allotment of any highway shall be made by virtue of this Act, by an order in vestry specially called for the purpose to appeal to the quarter sessions of the peace for the county where such parishes shall lie, to be holden next after the time when such order and plan shall be filed with the clerk of the peace as aforesaid, and not otherwise; and that upon the hearing of such appeal, the justices at such quarter sessions shall make such order as shall appear to them to be just, either by affirming quashing or amending the order of the two justices, and shall allow costs to either party as in their discretion they shall think right; which order of the quarter sessions shall not be removed by writ of *certiorari* or otherwise, but shall be final to all intents and purposes whatsoever.

Complaints, &c.,

VIII. And be it further enacted, That such complaint, summons, ad-
ay be made in the annexed Form.

judication and plan may be in the several forms stated in the Appendix hereunto annexed, or as near thereto as the circumstances and nature of each particular case may admit.

No. II.

34 Geo. III.

c. 64.

APPENDIX.—Information.

County } **A**T a petty session, holden before *J. P.* and *K. P.* two of his
of Majesty's justices of the peace for the said county, this
day of *J. S.* one of the surveyors of the highways of
the parish of *A.* came before the justices aforesaid, and gave them to be
informed, That there is in the said county a certain common highway
leading from *M.* to *N.*; and that there is a certain part of the said high-
way, (that is to say,) so much thereof as lies between a certain place
called *C.* and a certain other place called *D.*, being in length
[as the case may be] one side of which last-mentioned part of the said
highway adjoining to the parish of *A.* lies within the said parish of *A.*,
and is to be and of right ought to be repaired by the said parish of *A.*;
and that the other side of the same part of the said highway adjoining to
the parish of *B.* lies within the parish of *B.*, and is to be and of right
ought to be repaired by the said parish of *B.*; and stating that the repair
of such part of the said highway is very inconvenient to the parishes
aforesaid, and the want thereof detrimental to the public: And there-
fore praying, That such part of the said highway may be allotted and
apportioned for the repair thereof by the justices aforesaid to the said
several parishes of *A.* and *B.*, in the manner directed by an Act passed
in the thirty-fourth year of the reign of King *George* the Third, intituled
An Act, &c.

(Signed)

J. S.

One of the surveyors of the highways for the parish of *A.*

The above application was made to us the day and year first above
written.

*J. P.**K. P.*

Summons, to be subjoined to a Copy of the above Infor- mation.

County } **T**O the surveyors of the highways of the parish of *B.* in the
of said county, any or either of them.

Whereas a certain information has been given to us *J. P.* and *K. P.*
two of his Majesty's justices of the peace for the said county, by *J. S.*
one of the surveyors of the highways of the parish of *A.* in the said
county, a true copy whereof is above written; these are, in his Majesty's
name, to summon you any or either of you to appear before us at
in the said county, on the day of at to show
cause (if any) why an allotment and apportionment of the highway
therein mentioned should not be made, according to the provisions of
the Act referred to in the said information. Hereof fail not.

Given under our hands, this day of

*J. P.**K. P.*

Final Order and Adjudication, to be filed with the Clerk of the Peace.

WHEREAS, &c.

1. *State the original application.*

2. *The Summons.*

3. *The appearance; and that the parties were heard, or their non-
appearance.*

Now we, the justices aforesaid, having fully heard and understood the
premises do declare adjudge and order, That the said highway shall be
divided in the following manner; (that is to say,) That at the distance of
measuring from the place called *C.* there shall be erected cer-
tain posts or stones, *E.* and *F.* on each side of the said highway; and
the whole of the said highway, from the place called *C.* to such posts or

No. III.
34 Geo. III.
c. 74.

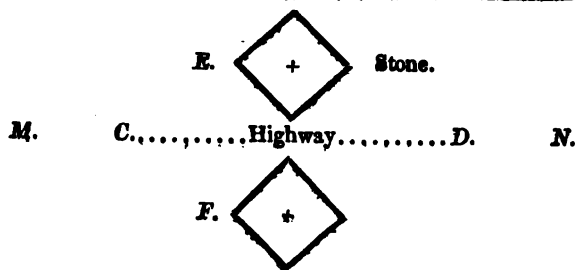
stones, shall be from time to time and at all times hereafter repaired by the parish of *A.*; and the whole of the said highway from such posts or stones to the place called *D.* shall from time to time and at all times hereafter be repaired by the parish of *B.*

In witness whereof we have hereunto set our hands and seals this day of

J. P. (L. S.)
K. P. (L. S.)

PLAN.

Parish of *A.* Bound to repair on this side to the dotted line.



Parish of *B.* Bound to repair on this side to the dotted line.

[No. III.] 34 George III. c. 74.—An Act for varying some of the Provisions in an Act of the Thirteenth Year of his present Majesty's Reign, respecting the Public Highways, within that Part of *Great Britain* called *England*, which relate to the Performance of Statute Duty,—[11th June 1794.]

34 Geo. III.
c. 74.
13 G. 3. c. 78.
in part recited.

WHEREAS by an Act made in the thirteenth year of his present Majesty's reign, intituled "An Act to explain amend and reduce into one Act of Parliament the Statutes now in being for the Amendment and Preservation of the Public Highways within that Part of *Great Britain* called *England*, and for other purposes," provisions and regulations are by a certain clause made and directed to be observed with respect to the duty required from persons not keeping teams draughts or ploughs, but keeping one or two horses used to draw any cart or carts, and also with respect to the sums to be paid by persons keeping coaches or other wheeled carriages, and likewise respecting the personal labour required from certain inhabitants of any parish township or place: And whereas by another clause in the said Act, persons liable to perform statute duty are empowered to compound for the same if he she or they shall think fit by paying to the surveyor certain sums of money as the justices at a special sessions shall adjudge and declare to be reasonable, not exceeding the sums therein mentioned: And whereas by one other clause in the said Act, the surveyor, together with the inhabitants and occupiers of lands, tenements, woods, tithes, and hereditaments within each parish township or place are directed at proper seasons in every year to use their endeavours for the repair of the highways and to be chargeable thereunto in the manner therein particularly mentioned; and the said clause also directs how the contributions in money are to be paid and recovered: And whereas by one other clause in the said Act the justices at their special sessions are empowered to direct the performance of team duty or labour in kind in any particular parish township or place within their respective limits where they find high and extravagant prices are required, occasioned by the difficulty

'in procuring necessary carriages or a sufficient number of labourers for the repair of the highways, and directing the proportions and manner in which such team duty or labour in kind shall be performed: And whereas it is expedient that certain poor persons mentioned in the said clauses some or one of them should be exempted from performing any personal labour and from paying any composition in lieu thereof in the repair of the highways; and it will be convenient that such clauses in the said Act, parts of which are herein-before recited, should be repealed and other provisions be substituted in the place thereof, and that the said Act should in other respects be explained and amended: Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That from and after the twenty-ninth day of *September* one thousand seven hundred ninety-four so much of the said Act of the thirteenth year of his present Majesty's reign as contains the before-recited clauses shall be and is hereby repealed.

II. And be it further enacted, That from and after the said twenty-ninth day of *September* every person who shall not keep a team draught or plough but shall keep one or more cart or carts and one or two horses or beasts of draught only used to draw in each of such carts upon the highways shall be obliged to perform his statute duty for the like number of days with such cart or carts and horse or horses or beasts of draught and one labourer to attend each cart, or to pay for the lands, tenements, woods, tithes, and hereditaments which he shall occupy according to the rate herein-after mentioned at the option of the surveyor; and every person who shall keep a coach, post-chaise, chair, or other wheel-carriage, and not keep a team draught or plough, nor occupy lands, tenements, woods, tithes, or hereditaments of the annual value of fifty pounds in the parish township or place where he shall reside shall pay to the surveyor one shilling in respect of every such day's statute duty for every horse which he shall draw in every such carriage, or shall pay according to the value of the lands tenements or hereditaments which he shall occupy according to the rate herein-after mentioned at the option of the surveyor: And if the said teams draughts or ploughs or any of them shall not be thought needful by the surveyor on any of the said days, then every such person who should have sent any such team draught or plough according to the directions aforesaid shall according to the notice to be given as herein-after directed send unto the said work for every one so spared three able men then to labour as aforesaid, or to pay to the said surveyor the sum of four shillings and sixpence in lieu thereof at the option of the surveyor; and all such persons as aforesaid shall respectively have and bring with them such shovels, spades, picks, mattocks, and other tools and instruments as are useful and proper for the purposes aforesaid; and all the said persons and carriages shall diligently perform the work and labour to which they shall be appointed by such surveyor for eight hours in every of the said days within such parish township or place, or in getting and carrying materials in and from any other parish township or place to be employed in the repair of the highways of the parish township or place for which they shall be required to perform such duty and labour as aforesaid; and if any person sending a team as aforesaid shall not send a sufficient labourer besides the driver (except as before mentioned), or if any such labourer or driver or the driver of any cart required to perform statute duty as aforesaid shall refuse to work and labour during the time above mentioned according to the direction of the surveyor, or if any driver shall refuse to carry proper and sufficient loads, it shall and may be lawful for such surveyor to discharge every such team cart or labourer and to recover from the owner of every such team or cart the forfeiture which every such person or persons would have incurred by virtue of the said Act in case no such team cart or labourer respectively had been sent.

III. Provided always and be it further enacted, That any person or persons liable to perform the said duty by sending one or more team or

No. III.
34 Geo. III.
c. 74.

and from
Sept. 29, 1794,
recited Part
repealed.

Persons keep-
ing Carts and
Horses only
used to draw in
them, to per-
form Statute
duty; and Per-
sons keeping a
Coach, &c., to
pay 1s. for each
Horse for each
Day's Statute
duty; or pay
as herein-after
mentioned.

Three Men
to be sent in
lieu of a Team,
if required, or
to pay in lieu
thereof.

Tools to be
bought.

Time of work-
ing.

If sufficient
Persons be not
sent, or if they
are idle, the
Owner of
Team, &c., lia-
ble to Penalty.

Composition
may be made
for Teams, &c.

No. III.
34 Geo. III.
c. 74.

Proportions of
Statute Labour.

Money to be
paid in lieu of
Statute duty,
by certain Per-
sons.

Sums to be paid.

teams, draught or draughts, plough or ploughs, with men horses or oxen in manner aforesaid shall and may compound for the same if he she or they shall think fit, by paying to the said surveyor at the time and in the manner as in the said recited Act is mentioned such sum or sums of money as the justices of the peace for the limits wherein such parish township or place shall be or the major part of them at their special sessions to be held in the first week after *Michaelmas* quarter sessions in every year shall adjudge and declare to be reasonable, not exceeding six shillings nor less than three shillings for each team draught or plough for each day; and in default of their adjudging and declaring the same the sum of four shillings and sixpence for and in lieu of every such day's duty for each team draught or plough; and for every cart and one horse or beast of draught two shillings; and for every cart with two horses or beasts of draught three shillings for and in lieu of every day's duty.

IV. And be it further enacted, That the said surveyor to be appointed by the said Act, together with the inhabitants and occupiers of lands, tenements, woods, tithes, and hereditaments, within each parish township or place, shall at proper seasons in every year use their endeavours for the repair of the highways and shall be chargeable thereunto as followeth; (that is to say), every person keeping a waggon, cart, wain, plough, or tumbrel, and three or more horses or beasts of draught used to draw the same shall be deemed to keep a team draught or plough and be liable to perform statute duty with the same in the parish township or place where he resides, and shall six days in every year (if so many days shall be found necessary) to be computed from *Michaelmas* to *Michaelmas* send on every day and at every place to be appointed by the surveyor for the amending the highways in such parish township or place one wain cart or carriage furnished after the custom of the country with oxen horses or other cattle and all other necessities fit to carry things for that purpose, and also two able men with such wain cart or carriage; which duty so performed shall excuse every such person from his duty in such parish township or place in respect of all lands, tenements, woods, tithes, or hereditaments not exceeding the annual value of fifty pounds which he shall occupy therein; and every person keeping such team draught or plough and occupying in the same parish township or place lands, tenements, woods, tithes, or hereditaments, of the yearly value of fifty pounds over and beyond the said yearly value of fifty pounds in respect whereof such team duty shall be performed; and every such person occupying lands, tenements, woods, tithes, or hereditaments, of the yearly value of fifty pounds in any other parish township or place besides that wherein he resides; and every other person not keeping a team draught or plough, but occupying lands, tenements, woods, tithes, or hereditaments of the yearly value of fifty pounds, in any parish township or place shall in like manner respectively and for the same number of days find and send one wain cart or carriage furnished with not less than three horses or four oxen and one horse or two oxen and two horses and two able men to each wain cart or carriage, and in like manner for every fifty pounds *per annum* respectively which every such person shall further occupy in any such parish township or place respectively; such wains carts or carriages to be employed by the surveyor in the repairing and amending the highways within the parish township or place where such lands, tenements, woods, tithes, or hereditaments, shall respectively lie; and every person who shall not keep a team draught or plough, but shall occupy lands, tenements, woods, tithes, or hereditaments, under the yearly value of fifty pounds in the parish township or place where he resides, or in any other parish township or place; and every person keeping a team draught or plough and occupying lands, tenements, woods, tithes, or hereditaments, under the yearly value of fifty pounds in any other parish township or place than that wherein he resides shall respectively contribute to the repair of the highways and pay to the surveyor of such parish township or place respectively, in lieu of such duty, the sums following; *videlicet*, for every twenty shillings of the annual value of such lands, tenements, woods, tithes, or hereditaments respectively, the sum of one penny for every day's statute

duty, which shall be required and called for by the surveyor of such parish township or place respectively in every year, not exceeding six days' duty in the whole as aforesaid; and every such person respectively shall in like manner pay the sum of one penny for every twenty shillings of the annual value of the lands, tenements, woods, tithes, and hereditaments, which he shall occupy in any such parish township or place respectively above the annual value of fifty pounds and less than one hundred pounds, and so for every twenty shillings that each progressive and intermediate annual value of twenty shillings of the lands, tenements, woods, tithes, and hereditaments, which he shall so occupy shall fall short of the further increase of fifty pounds in every parish township or place where such lands, tenements, woods, tithes, and hereditaments shall respectively lie, for every day's statute duty so to be required as aforesaid: Provided, That no person keeping such team draught or plough and performing duty with the same as aforesaid in the parish township or place where he resides, and not occupying lands, tenements, woods, tithes, or hereditaments, within the same of the yearly value of thirty pounds, shall be obliged to send more than one labourer with such team draught or plough; which said several sums shall be considered as compositions and shall be paid to the surveyor of the parish township or place in which they are charged for the use of the highways therein, at the time such compositions are to be paid under the authority of the said Act or within ten days after; or in default of such payments the said surveyor shall make application to a justice of the peace acting for the limit or district wherein such default shall be made, and the justice to whom such application shall be made shall summon the party so making default to appear at some special or other petty sessions to be holden for such limit or district, and at which two justices at the least shall be present, to show cause why he has refused or neglected to pay such composition money; and in default of appearance or if on appearance he shall not make it appear to the satisfaction of the said justices that he is poor and indigent and as such is an object deserving relief, such money shall be levied by distress and sale of the goods and chattels of the person or persons refusing or neglecting to pay the same in such manner as the forfeitures for the neglect in performing the statute duty are hereby authorized to be levied and raised: Provided always, That when on application as above-mentioned the justices shall think proper to discharge any poor and indigent person from payment of the rate or composition money, such person shall at the same time be discharged from any expences which may arise in consequence of such summonses and appearance.

V. 'And whereas it may frequently happen that persons wholly gaining their livelihood by the wages of daily labour and occupying rateable tenements within a parish township or place, by reason of age, sickness, a numerous family, or misfortune may be in poor and indigent circumstances, and it may be expedient in certain cases to discharge such poor and indigent persons from all rates assessments or composition whatsoever imposed by authority of the above-recited Act; be it further enacted, That on the application of any poor and indigent person to be discharged from the payment of the rate or composition made to any two justices of the peace at any special or petty sessions held for the limits wherein such poor and indigent person shall reside, the said justices (having first given notice to the surveyor of the highways to appear on the part of the parish township or place in which such poor person shall reside) shall inquire and examine into the situation and circumstances of the person making such application; and if it shall appear to the satisfaction of such justices that such person is really poor and indigent and a deserving object of such relief, the said justices may and they are hereby empowered to exempt such poor and indigent person from the payment of all rates assessments or composition whatsoever imposed by the said recited Act.

VI. Provided always and be it further enacted, That if it shall appear to the justices at their special sessions to be held in the week next after Michaelmas quarter sessions, or at any other special or petty sessions held

No. III.
34 Geo. III.
c. 74.

Persons keeping Teams, &c., and performing Duty in the Place of Residence, and not occupying Premises of the Yearly Value of 30*l*. not liable to send more than one Labourer.

Sums to be deemed Compositions, and paid to the Surveyor, &c.
Justices to summon Defaulters, &c.
Poor Persons discharged from Payment of the Rate to be discharged from Expences.
Justices may exempt poor Persons from Payment of the Rates.

Justices may direct Team Duty to be performed in Kind.

No. IV.

44 Geo. III.
c. 52.

Exception.

Labourers may
be ordered to
do Statute
duty on Pay-
ment of the
usual Wages.
Persons to per-
form Duty in
Kind to be
drawn by Lot.

Recited Act of
13 George III.
except hereby
altered to con-
tinue in force.

within the limits of any parish township or place at which two or more justices shall be present, that from the directions herein-before given for the performing and compounding the statute duty there will be difficulty in procuring the necessary carriage or a sufficient number of labourers for the repair of the highways in any particular parish township or place within their respective limits without paying high and extravagant prices for the same, it shall and may be lawful for such justices to order and direct the team duty or so much thereof as they shall think fit to be performed in kind within every such parish township or place, except in respect of such teams as belong to persons who do not occupy lands, tenements, woods, tithes, or hereditaments of the annual value of thirty pounds within the same, and also to order all such persons as shall gain their living by the wages of daily labour or such part as they shall think fit to perform six days' labour upon such highways in kind, either by themselves or other sufficient labourers in case so many days' duty shall be required, upon being paid for such labour the usual and customary wages given to labourers in such parish township or place; provided that if part of such teams or labourers only are required it shall be directed by the said order of the justices in some given proportion as one half third or fourth part thereof; and the surveyor shall in that case at a public vestry for such parish township or place put the names of all the persons liable by this Act to send such teams into one hat or box and the names of all the persons liable to perform such labour into another hat or box, and some inhabitant then present shall draw out such number from each as shall be equal to the proportion so ordered by the said justices, and the persons so drawn shall perform such duty in kind for that year; and that if any such order shall be made or continued in the subsequent year the same method shall be observed, but the names drawn in the preceding year shall not be put into such hat or box; and in every succeeding year such method and regulation shall be observed by such surveyor as to render the duty so required to be performed in kind as equal amongst the several persons liable thereto as may be; which order of the said justices so far as the same shall be extended shall supersede the said power or liberty of compounding, and shall be binding and effectual to all intents and purposes whatsoever, and shall continue in force until it shall be discharged or varied by the justices at some subsequent special sessions for the highways within such limit to be held in the week next after *Michaelmas* quarter sessions; any thing herein contained to the contrary thereof in anywise notwithstanding.

VII. And be it further enacted, That all the clauses powers and provisions contained in the said Act of the thirteenth year of his present Majesty's reign (except such as are hereby repealed or altered) shall continue in force in the same manner as if the same were repeated and re-enacted in the body of this present Act (9.); any thing herein contained to the contrary thereof in anywise notwithstanding.

(9.) That branch of § 19. of Stat. 13 Geo. 3. c. 78. (the General Highway Act) which directs that "when any Highway hath been diverted above 12 months, &c., if a new Highway hath been made in lieu thereof, and the same hath been acquiesced in, &c., every such new Highway

shall, from henceforth, be public highway," is retrospective only: and it is not extended by § 7, of 34 Geo. 3. c. 74. incorporating all the Clauses and Provisions of the Act 13 Geo. 3. Waite v. Smith, 8 T. R. 133.

[No. IV.] 44 George III. c. 52.—An Act to alter and amend so much of an Act, passed in the Thirty-fourth Year of his present Majesty, as relates to the Amount of the Sums to be paid by Persons compounding for the Performance of Statute Duty.—[16th May 1804.]

44 Geo. III. c. 52. WHEREAS by an Act passed in the thirty-fourth year of his present Majesty's reign, intituled, "An Act for varying some of the Provisions, &c. 74. § 3, 4. respecting the Highways in England.



'visions in an Act of the Thirteenth Year of his present Majesty's Reign, respecting the Public Highways within that part of *Great Britain* called *England* which relate to the performance of Statute Duty," it is amongst other things enacted, That any person or persons liable to perform statute duty may compound for the same by paying to the surveyor of the highways such certain sums of money as the justices at a special session of the peace shall adjudge and declare to be reasonable, not exceeding the sums therein mentioned: And whereas it is expedient that the sums so to be paid by persons desirous of compounding for statute duty should be increased in the proportions herein-after mentioned; be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That from and after the passing of this Act, so much of the said Act of the thirty-fourth year of his present Majesty's reign as relates to the amount of the sums to be paid by persons desirous of compounding for the performance of statute duty shall be and the same is hereby repealed.

So much of recited Act as relates to the Amount of Composition for Statute duty repealed.

II. And be it further enacted, That from and after the passing of this Act any person or persons liable to perform statute duty by sending one or more team or teams draught or draughts plough or ploughs, with men horses or oxen in manner in the said recited Act of the thirty-fourth year of his present Majesty's reign mentioned, shall and may compound for the same, if he she or they shall think fit by paying to the surveyor of the highways at the time and in the manner in the said Act of the thirteenth year of his present Majesty's reign mentioned, such sum or sums of money as the justices of the peace for the limits wherein the parish township or place for which the said duty is liable to be performed is situate, or the major part of them at their special session to be held in the first week after *Michaelmas* quarter session in every year, shall adjudge and declare to be reasonable, not exceeding twelve shillings nor less than three shillings for each team draught or plough for each day; and in default of their adjudging and declaring the same the sum of six shillings for and in lieu of every day's duty for each team draught or plough; and for each cart with two horses or beasts of draught not exceeding eight shillings nor less than three shillings; and in default of their adjudging and declaring the same the sum of four shillings; and for each cart with one horse or beast of draught not exceeding six shillings nor less than two shillings; and in default of their adjudging and declaring the same the sum of three shillings.

How Composition for Statute duty shall in future be ascertained and paid, and to what Amount.

[No. V.] 54 George III. c. 109.—An Act to amend an Act of the Thirteenth Year of his present Majesty, to explain amend and reduce into one Act the Statutes now in force for the Amendment and Preservation of the Public Highways within *England*, and for other purposes.—[23d July 1814.]

'WHEREAS by an Act passed in the thirteenth year of his present Majesty, intituled "An Act to explain amend and reduce into one Act of Parliament the statutes now in being for the Amendment and Preservation of the Public Highways within that part of *Great Britain* called *England*, and for other purposes," the justices of the peace at their general quarter or special sessions for the highways are empowered to allow certain assessments to be made and collected for the maintenance and repair of the highways: And whereas it has been found by experience that the assessments which are authorized by that Act are not sufficient for the purposes to which the same are therein directed to be applied; be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons in this present Parliament assembled, and

54 George III.
c. 109.

13 Geo. 3. c. 78.
§ 48.

No. V.
54 Geo. III.
c. 109.

Upon Application of Surveyor of Highways, Justices may direct additional Assessment.

Notice of Application given.

Objections.

Amount of Assessment limited.

34 G. 3. c. 74.
§ 4.

44 G. 3. c. 52.
§ 2.

Composition in lieu of Statute-duty.

by the authority of the same, That if upon the application of the surveyor of the highways of any parish township or place to the justices of the peace at their general or quarter sessions or at a special sessions for the highways the said justices shall be fully satisfied that the common highways, bridges, causeways, streets, or pavements belonging to such parish township or place are so far out of order that they cannot be sufficiently amended and supported by the means in the said herein-before recited Act of the thirteenth year of his present Majesty's reign prescribed and by the assessments therein authorized to be made and collected, it shall and may be lawful for the said justices to authorize order and direct an additional assessment to be made on such parish township or place (over and above all the assessments by the said Act authorized to be made and collected); which said additional assessment shall be levied and collected by the same means and in the same manner and form as is directed for the levying and collecting the assessments made under the authority of the said herein-before recited Act, and upon the same persons as are therein declared to be liable to be rated to the said assessments.

II. Provided always and be it enacted, That notice of such intended application shall be first proved before the said justices, upon the oath of the surveyor making such application, to have been given at the church or chapel on two *Sundays* preceding such general or quarter sessions or special sessions for the highways; or in townships or places where there are no churches or chapels, to have been stuck up in writing in two or more conspicuous places within the said townships or places for one week at least previous to such general or quarter sessions or special sessions for the highways; or in extraparochoial places, to have been given in writing to some of the principal inhabitants residing in such extraparochoial place, a week at least before such general or quarter sessions or special sessions for the highways; in order that any person or persons liable to be rated to the assessment intended to be applied for, may attend at such general or quarter sessions or special sessions, if they shall think fit; there to state to the said justices any objections which he she or they may have to the making and collecting of such assessment.

III. Provided always and be it further enacted, That the assessment herein authorized shall not exceed the rate of one shilling and nine-pence in the pound on the actual value at the time of making such additional assessment.

IV. 'And whereas by an Act passed in the thirty-fourth year of the reign of his present Majesty, intituled "An Act for varying some of the Provisions of an Act of the Thirteenth Year of his present Majesty's Reign respecting the Public Highways in that part of *Great Britain* called *England*, which relate to Statute Duty," it is enacted, that it shall be at the option of the surveyor either to require the statute duty in kind or a composition in money in lieu thereof at certain rates which are therein fixed: And whereas by an Act passed in the forty-fourth year of his present Majesty's reign, intituled "An Act to alter and amend so much of an Act passed in the thirty-fourth year of his present Majesty, as relates to the amount of the Sums to be paid by persons compounding for the performance of Statute Duty," the rates for such statute duty have been increased so far as respects teams, draughts, ploughs, and carts, with one or two horses: And whereas the actual wages of labour and the actual rate of hiring teams, carts, horses, or oxen, vary at different times and different parts of *England*;' be it therefore further enacted, That in all cases in which it shall be made to appear to two or more justices of the peace acting within the district, by the surveyors of the highways or of any turnpike road, that the maintenance and repair thereof can be more effectually carried on by a composition in money than by a performance of the statute duty in kind, he or they shall be at liberty to require such composition in money, upon receiving an authority under the hands and seals of the said justices for that purpose, in lieu of either the whole or of any certain part of the statute duty, from the several persons who are bound by law to perform such statute duty; and the justices of the district at their special sessions for the highways held in the week next after

Michaelmas, yearly, shall fix such rates as they shall adjudge reasonable, as a composition in lieu of the teams, carts, horses, oxen, or labour which such persons are bound in the proportions now fixed by law to provide or perform; which rates the said justices are hereby authorized and required annually to make known at such special sessions, due regard being had to the actual wages of labour and to the actual rate of hiring teams, draughts, ploughs, carts, horses, or oxen, in the parish place or district in which such composition is required; and such composition shall be paid in the same manner and within the same period and subject to the same regulations and provisions as are now by law established for enforcing the payment of compositions in lieu of statute duty: Provided always that in case where the whole composition in money shall not be required in lieu of the whole of the duty in kind such composition shall be demanded in fair and equal proportions from each and every person liable to pay the same, unless any of the said persons shall prefer to pay a composition for the whole of their statute duty according to the rates fixed in the manner herein directed.

No. V.
54 Geo. III.
c. 109.

Proviso.

Rate of Com-
position.

V. And be it further enacted, That all persons who are liable under any of the provisions of any of the herein-before recited Acts to contribute to the repair of the highways by a payment of money in lieu of statute duty shall contribute thereto in lieu of every day's statute duty for every twenty shillings of the actual annual value at the time of making the said assessment of the lands, tenements, woods, tithes, and hereditaments, which such persons shall respectively occupy in the parish township or place where they reside, or in any other parish township or place, a sum equal to one-fiftieth part of the sum fixed by the justices at the time and in the manner by this Act directed as the composition for one day's labour of a cart wain or carriage furnished with three horses and two able men, omitting any fractional part of the said sum which does not amount to one farthing; and all persons occupying more than fifty pounds *per annum* in the parish township or place wherein they reside, or in any other parish township or place, and less than one hundred pounds *per annum*, shall contribute to the repairs of the highways in lieu of every day's statute duty for every twenty shillings of the actual annual value at the time of making the said assessment of the lands, tenements, woods, tithes, and hereditaments, which such person shall respectively occupy over and beyond the said sum of fifty pounds *per annum* and under one hundred pounds, a sum equal to one fiftieth part of the sum fixed by the said justices at the time and in the manner by this Act directed, as the composition for one day's labour of a cart wain or carriage furnished with three horses and two able men, omitting any fractional part of the said sum which does not amount to one farthing; and so on progressively for every twenty shillings of the actual annual value of the lands, tenements, woods, tithes, and hereditaments, which they shall respectively occupy over and beyond every additional fifty pounds *per annum*; and the said sum or sums shall be paid in the same manner and within the same period and subject to the same regulations and provisions as are now by law established for enforcing the payment of composition in lieu of statute duty.

VI. And be it further enacted, That every person who shall keep a coach, post-chaise, chair, or other wheel carriage, and not keep a team draught or plough nor occupy fifty pounds *per annum* in the parish township or place where he resides, shall pay to the surveyor or surveyors in respect of every day's statute duty for every horse which he or she shall use in drawing such carriage such a sum as the justices shall at the time and in the manner by this Act directed, fix as the composition for one day's work of a horse; or shall at the option of the surveyor or surveyors pay in lieu of every day's statute duty for every twenty shillings of the actual annual value of the lands, tenements, woods, tithes, and hereditaments, which he or she shall respectively occupy, a sum equal to one-fiftieth part of the sum fixed by the justices at the time and in the manner by this Act directed, as the composition for one day's labour of a cart wain or carriage furnished with three horses and two able men, omitting any fractional part of the said sum which does not amount to

Persons keeping
Carriages
though not oc-
cupying to
Amount of 50l.
liable to Com-
position.

No. VI.
55 Geo. III.
c. 68.

Performance of
Statute duty.

Forfeitures and
Arrears how
enforced, &c.

Justices of
Peace, &c., to
execute Act.

Not to alter
former Acts
but where ex-
pressly amend-
ed.

one farthing : And the said sum or sums shall be paid in the same manner and within the same period, and subject to the same regulations and provisions as are now by law established for enforcing the payment of compositions in lieu of statute duty.

VII. And be it further enacted, That all persons who shall refuse or neglect to perform any part of their statute duty in kind on being regularly summoned by the surveyor for that purpose, shall forfeit and pay a sum equal to twice the amount of the composition for such statute duty as they shall have so neglected or refused to perform, according to the rates fixed by the justices under the provisions of this Act; and the said persons shall also be liable to perform the said statute duty which they have so neglected or refused to perform either in the same or in the following year; the payment of such forfeitures and the arrears of such statute duty to be enforced and applied to the benefit of the highway or turnpike road as the case may be, to which the original neglected duty was due or owing, by the surveyor or surveyors for the time being, and under the same regulations and in the same manner as other forfeitures may be levied and statute duty may in other cases be enforced by any of the provisions of any of the said herein-before recited Acts.

VIII. And be it further enacted, That the justices of the peace and magistrates of all cities, corporations, boroughs, precincts, liberties, and other separate jurisdictions are hereby authorized and required to put in execution every part of this Act within their respective jurisdictions so far as the provisions thereof are applicable, in as full and ample a manner as the justices of any county or of any division thereof.

IX. Provided also, and be it further enacted, That nothing in this Act contained shall alter the several herein-before recited Acts, nor any Act or Acts passed subsequently to the said herein-before recited Acts regarding the highways or turnpike roads in *England* and *Wales*; but that the same, where not expressly amended or altered by this Act, shall remain in as full force as at the time of passing this Act: and that all their powers, authorities, provisions, regulations, and forms, shall be applicable not only to the carrying those Acts respectively into execution but also this Act, so far as the same are adapted thereto and are not expressly varied or altered by this Act, in as full and ample a manner as if the same had been re-enacted in this Act.

[No. VI.] 55 George III. c. 68.—An Act to amend an Act of the Thirteenth Year of his present Majesty, for the Amendment and Preservation of the Public Highways, in so far as the same relates to Notice of Appeal against turning or diverting a Public Highway; and to extend the provisions of the same Act to the stopping up of unnecessary Roads.—[7th June, 1815.]

55 George III.
c. 68.
13 G. 3. c. 78.

WHEREAS by an Act of Parliament made in the thirteenth year of the reign of his present Majesty, intituled "An Act to explain amend and reduce into one Act of Parliament the Statutes now in being for the Amendment and Preservation of the Public Highways within that part of *Great Britain* called *England*, and for other Purposes," it was, amongst other things enacted, That when it should appear upon the view of any two or more of the justices of the peace in the said Act mentioned that any public highway not in the situation therein-before described or public bridleway or footway might be diverted so as to make the same nearer or more commodious to the public, and the owner or owners of the lands and grounds through which such new highway bridleway or footway was proposed to be made, should consent thereto by writing under his or their hand and seal or hands and seals, it should and might be lawful by order of such justices at some special sessions to divert and turn and stop up such footway, and to divert turn and stop up and inclose sell and dispose of such old highway or bridleway and to pur-

chase the ground and soil for such new highway bridleway or footway, by such ways and means and subject to such exceptions and conditions in all respects as in the said recited Act mentioned with regard to highways to be widened or diverted; and where any such highway bridleway or footway herein last before described should be so ordered to be stopped up or inclosed, and such new highway bridleway or footway set out and appropriated in lieu thereof as aforesaid, it should and might be lawful for any person or persons injured or aggrieved by any such order or proceeding or by the inclosure of any road or highway, by virtue of any inquisition taken upon any writ of *Ad quod Damnum*, to make his or their complaint thereof by appeal to the justices of the peace at the next quarter sessions which should be holden within the limit where the same should lie after such order made or proceeding had as aforesaid, upon giving ten days' notice in writing of such appeal to the surveyor and party interested in such inclosure if there should be sufficient time for that purpose, if not such appeal might be made upon the like notice to the next subsequent quarter sessions of the peace; which courts of quarter sessions were thereby respectively authorized and empowered to hear and finally determine such appeal; and if no such appeal be made or being made, such order and proceedings should be confirmed by the said court, the said inclosures might be made and the said ways stopped, and the proceedings thereupon should be binding and conclusive to all persons whomsoever; and the new highway bridleway or footway so to be appropriated and set out should be and for ever after continue a public highway bridleway or footway to all intents and purposes whatsoever; but that no inclosures of such highway bridleway or stoppage of such footway should be made, until such new highway bridleway or footway should be completed and put into good condition and repair, and so certified by two justices of the peace upon view thereof; which certificate it was thereby enacted should be returned to the clerk of the peace and inrolled amongst the records of the said court of quarter sessions; but from and after such certificate such old highways bridleway or footway should and might be stopped up, and the soil of such old highways or bridleways sold in the manner and subject to the reservations and restrictions in the said recited Act mentioned, with respect to the highways to be enlarged or diverted by virtue thereof: And whereas it is expedient that more public notice should be given of any order made or proceeding had for diverting, turning, stopping, and inclosing any highway bridleway or footway; and also that a greater facility of appeal to the quarter sessions against such order or proceeding should be given to any person or persons who may think themselves aggrieved thereby; and it is also expedient that his Majesty's justices of the peace should have power under certain regulations to stop up unnecessary highways bridleways and footways: May it therefore please your Majesty that it may be enacted; and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That so much of the said Act of the thirteenth year of his present Majesty as herein-before recited shall be and the same is hereby repealed.

II. And be it further enacted by the authority aforesaid, That when it shall appear upon the view of any two or more of the said justices of the peace that any public highway or public bridleway or footway may be diverted so as to make the same nearer or more commodious to the public, and the owner or owners of the lands and grounds through which such new highway bridleway or footway so proposed to be made shall consent thereto by writing under his or their hand and seal or hands and seals, it shall and may be lawful by order of such justices at some special sessions to divert and turn and to stop up such footway, and to divert, turn, stop up, and inclose sell and dispose of such old highway or bridleway and to purchase the ground and soil for such new highway bridleway or footway by such ways and means and subject to such exceptions and conditions in all respects as in the said recited Act mentioned with regard to highways

No. VI.

55 Geo. III.
c. 68.

Part of 13 G. 3.
c. 78. repealed.
Justices by Order at Special Sessions may divert and turn certain Highways, Bridleways, and Footways.

No. VI.
55 Geo. III.
c. 68.

Justices may order the stopping up of unnecessary Highways, &c.

Such Notice to be inserted in the Newspapers of the County in which such Highways, &c., shall lie ;

and the Order returned to the Clerk of the Peace, and confirmed and inrolled at Quarter Sessions.

Persons injured by any such Order or Proceedings, may appeal to Justices at Quarter Sessions, upon giving Notice thereof in Writing.

If no Appeal be made, or if such Order be confirmed, the old Ways may be stopped, and Proceedings shall be conclusive ;

to be widened or diverted ; and also when it shall appear upon the view of any two or more of the said justices of the peace that any public highway bridleway or footway is unnecessary, it shall and may be lawful by order of such justices or any two of them to stop up and to sell and dispose of such unnecessary highway bridleway or footway by such ways and means and subject to such exceptions and conditions in all respects as in the said recited Act is mentioned in regard to highways to be widened and diverted ; except that the money to arise from such sale where by the said Act it would be applicable to the purchase of the ground and soil of the new highways or bridleways therein mentioned, shall be paid to the surveyor or surveyors and be applied towards the general repairs of the highways and bridleways of the parish township or place within which the said highway bridleway or footway so stopped up shall be situate : Provided that in the several cases before mentioned a notice in the form or to the effect of schedule (A.) to this Act annexed, shall be affixed in legible characters at the place and by the side of the said highway bridleway or footway from whence the same is directed to be turned diverted or stopped up, and also inserted in one or more newspaper or newspapers published or generally circulated in the county where the parish township or place in which the highway bridleway or footway so ordered to be diverted and turned or stopped up (as the case may be) shall lie (or in case no such newspaper shall be so published or circulated in such county, then in any newspaper or newspapers published or circulated in the nearest adjoining county) for three successive weeks after the making of such order ; and a like notice shall be affixed to the door of the church or chapel of every parish or township, in which such highway bridleway or footway so ordered to be diverted turned or stopped up or any part thereof shall lie, on three successive *Sundays* subsequent to the making of such order ; and the said several notices having been so published the said order shall at the quarter sessions which shall be holden within the limit where the highway bridleway or footway so diverted and turned or stopped up shall lie next after the expiration of four weeks from the first day on which such notices shall have been published as aforesaid, be returned to the clerk of the peace in open court and lodged with him ; and the said order shall at such quarter sessions be confirmed and by the clerk of the peace inrolled amongst the records of the said court of quarter sessions. (1.)

III. Provided always and be it further enacted, That where any such highway bridleway or footway shall be so ordered to be stopped up or inclosed and such new highway bridleway or footway set out and appropriated in lieu thereof as aforesaid, or where any unnecessary highway bridleway or footway shall be so ordered to be stopped up as aforesaid, it shall and may be lawful for any person or persons injured or aggrieved by any such order or proceeding or by the inclosure of any road or highway by virtue of any inquisition taken upon any writ of *Ad quod Damnum* to make his or their complaint thereof by appeal to the justices of the peace at the said quarter sessions, upon giving ten days' notice in writing of such appeal to the surveyor of the highways of the parish township or place wherein such highway bridleway or footway shall be situated ; and also affixing such notice to the door of the church or chapel of such parish township or place ; and the said court of quarter sessions is hereby authorized and empowered to hear and finally determine such appeal. (2.)

IV. Provided always and be it further enacted by the authority aforesaid, That if no such appeal be made or being made, such order and proceedings shall be confirmed by the said court, the said inclosures may be made and the said ways stopped ; and the proceedings thereupon shall be binding and conclusive to all persons whomsoever ; and the new highways bridleways and footways so to be appropriated and set out shall be and for Proceedings shall be conclusive ; and new Highways shall afterwards continue a Public Highway, &c.

(1.) Vide *Rex v. Worcester-shire (Justices)*, 2 B. & A. 228.

(2.) In an Appeal against an Inclosure of a highway, by virtue of a Writ of *Ad quod Damnum*,

the notices required by the 55 Geo. 3. c. 68. must be given, and a notice to the party interested is not alone sufficient. *Rex v. Essex (Justices)*, 1 B. & A. 373.

ever after continue a public highway bridleway or footway to all intents and purposes whatsoever; but no inclosures of such old highways bridleways or footways (except in the case of stopping up of such useless highways bridleways or footways as herein-before is mentioned) shall be made until such new highway bridleway or footway shall be completed and put into good condition and repair, and so certified by two justices of the peace upon view thereof; which certificate shall be returned to the clerk of the peace and by him inrolled amongst the records of the court of quarter sessions next after such order as aforesaid shall have been confirmed or inrolled pursuant to the directions herein-before contained; but from and after the inrolment of such order and certificate such old highway bridleway or footway shall be stopped up and the soil of such old highway or bridleway sold in the manner and subject to the reservations and restrictions in the said recited Act mentioned with respect to highways to be diverted by virtue of the said recited Act.

V. Provided always and be it further enacted, That this Act or any thing herein contained shall not and shall not be construed to annul or in any way affect or impeach any order or proceeding for the diverting or stopping up any highway bridleway or footway made or had previous to the day of passing of this Act, but such order and proceedings may be proceeded in and completed in the same manner, and shall be valid and binding on all persons whatsoever to all intents and purposes as if this Act had not been made; any thing herein-before contained to the contrary notwithstanding.

VI. And whereas by an Act passed in the fifty-fourth year of his present Majesty, intituled, "An Act to amend an Act of the Thirteenth Year of his present Majesty," it is among other things enacted, that two or more justices of the peace at their special sessions to be holden in the week next after *Michaelmas* yearly shall fix such rates as they shall adjudge reasonable as a composition in lieu of teams, carts, horses, oxen, or labour: And whereas certain other matters relative to the highways are directed to be done by justices of the peace at their special sessions to be holden in the week next after the *Michaelmas* quarter sessions: And whereas the time for holding the *Michaelmas* quarter sessions has been altered by an Act made in the fifty-fourth year of his present Majesty, intituled, "An Act for regulating the Time of holding the *Michaelmas* Quarter Sessions;" be it therefore enacted, That it shall and may be lawful for the justices of the peace assembled in their special sessions in the week after *Michaelmas* to do and perform every act which they might heretofore legally have done in the special sessions directed to be holden in the week after the said *Michaelmas* general quarter sessions of the peace.

SCHEDULE to which this Act refers.

Schedule (A.)—Form of Notice.

NOTICE is hereby given, That on the _____ day of _____ last, an order was signed by J. W. and T. H. two of his Majesty's justices of the peace in and for the county of _____ for [if the order be for turning diverting and stopping up, &c. here so state it, and describe the road ordered to be turned diverted and stopped up;—if the order be for stopping up a useless road, here so state it, and describe the road ordered to be stopped up;] and that the said order will be lodged with the clerk of the peace for the said county at the general quarter sessions of the peace to be holden at _____ in and for the said county, on the _____ day of _____ next, and also that the said order will at the said quarter sessions be confirmed and inrolled, unless upon an appeal against the same to be then made it be otherwise determined.

No. VII.
58 Geo. III.
c. 2.

Act not to annul any previous Order or Proceedings.


54 G. 3. c. 109.

51 G. 3. c. 84.

To act in Michaelmas Special Sessions.

[No. VII.] 58 George III. c. 2.—An Act to suspend until the end of the present Session of Parliament the Opera-

No. XIII.
1 Geo. IV.
c. 70.



tion of an Act made in the last Session of Parliament, to provide for the more deliberate Investigation of Presentments to be made by Grand Juries for Roads and Public Works in *Ireland*, and accounting for Money raised by such Presentments.—[18th February 1818.]

[No. VIII.] 58 George III. c. 44.—An Act to alter the Application of part of the Sum of 50,000*l.* granted by an Act passed in the Fifty-sixth Year of the Reign of his present Majesty, intituled an Act for improving the Road from the City of *Glasgow* to the City of *Carlisle*.—[28th May 1818.]

[No. IX.] 58 George III. c. 67.—An Act to provide for the more deliberate Investigation of Presentments to be made by Grand Juries, for Roads and Public Works in *Ireland*, and for accounting for the Money raised by such Presentments.—[3d June 1818.]

[No. X.] 59 George III. c. 30.—An Act for vesting in Commissioners the line of Road from *Shrewsbury*, in the County of *Salop*, to *Bangor Ferry*, in the County of *Carnarvon*, and for discharging the Trustees under several Acts of the Seventeenth, Twenty-eighth, Thirty-sixth, Forty-first, Forty-second, Forty-seventh, and Fiftieth Years of his present Majesty from the future Repair and Maintenance thereof; and for altering and repealing so much of the said Acts as affects the said line of Road.—[19th May 1819.]

[No. XI.] 59 George III. c. 84.—An Act to amend the Laws for making repairing and improving the Roads and other Public Works in *Ireland* by Grand Jury Presentments, and for a more effectual Investigation of such Presentments, and for further securing a true full and faithful Account of all Monies levied under the same.—[7th July 1819.]

[No. XII.] 59 George III. c. 135.—An Act to repeal Two Acts made in the Fifty-fourth and Fifty-fifth Years of the Reign of his present Majesty for maintaining and keeping in Repair certain Roads and Bridges in *Scotland*, to provide more effectually for that Purpose; and for Regulation of Ferries in *Scotland*.—[13th July 1819.]

[No. XIII.] 1 George IV. c. 70.—An Act for Improving the Roads between *London* and *Chirk*, in the County of *Denbigh*, by *Coventry*, *Birmingham*, and *Shrewsbury*.—[15th July 1820.]

[No. XIV.] 1 George IV. c. 95.—An Act for obtaining Returns from Turnpike Road Trusts of the Amount of their Revenues and Expence of maintaining the same.—
[24th July 1820.]

No. XV.
3 Geo. IV.
c. 126.

[No. XV.] 3 George IV. c. 126.—An Act to amend the general Laws now in being for regulating Turnpike Roads in that Part of *Great Britain* called *England*.—
[6th August 1822.]

WHEREAS the laws now in force for the general regulation of turnpike roads in that part of *Great Britain* called *England*, are found to be ineffectual and require amendment; wherefore for remedy thereof, be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That from and after the first day of *January* one thousand eight hundred and twenty-three, an Act passed in the thirteenth year of the reign of his late Majesty King *George* the Third, intituled 'An Act to explain amend and reduce into One Act of Parliament, the general Laws now in being for regulating the Turnpike Roads in that part of *Great Britain* called *England*, and for other purposes;' and also an Act passed in the fourteenth year of his said late Majesty's reign, intituled 'An Act to repeal a clause in an Act made in the Thirteenth Year of his present Majesty's reign, intituled "An Act to explain amend and reduce into One Act " of Parliament, the general Laws now in being for regulating the " Turnpike Roads in that Part of *Great Britain* called *England*, and " for other Purposes," which regulates the Width of the Wheels, and the Length of Carriages liable to be weighed, and for indemnifying Persons who have offended against the said Clause;' and also an Act passed in the fourteenth year of his said late Majesty's reign, intituled 'An Act to explain and amend an Act made in the Thirteenth Year of his present Majesty's reign, intituled "An Act to explain amend and reduce into " One Act of Parliament, the general Laws now in being for regulating " the Turnpike Roads in that Part of *Great Britain* called *England*, and " for other purposes," so far as the same relates to the continuing and granting an additional Term of Five Years to Acts made for amending Turnpike Roads;' and also an Act made in the fourteenth year of the reign of his said late Majesty, intituled 'An Act to repeal so much of an Act made in the last session of Parliament, for reducing into One Act the general Laws relating to Turnpike Roads, as exempts persons from the Payment of Tolls at Side Gates erected at Places specified in any Act of Parliament;' and also an Act made in the fourteenth year of his said late Majesty's reign, intituled 'An Act for explaining and altering an Act made in the thirteenth year of his present Majesty, intituled "An " Act to explain amend and reduce into One Act of Parliament, the " general Laws now in being for regulating the Turnpike Roads in that " Part of *Great Britain* called *England*," and for other purposes,' so far as the same relates to the payment of additional Tolls at Weighing Engines, and the Number of Horses to be used in Carriages drawn on Turnpike Roads, and for allowing certain Exemptions with respect to Weight and Payment of Toll in particular Cases;' and also an Act passed in the sixteenth year of his said late Majesty's reign, intituled 'An Act for repealing a Clause in an Act made in the Thirteenth Year of the Reign of his present Majesty, intituled "An Act to explain amend and reduce into " One Act of Parliament, the general Laws now in being for regulating " the Turnpike Roads in that Part of *Great Britain* called *England*, " and for other Purposes," which relates to the countersinking of the Tire of the Wheels of all Waggon Wains and other Carriages to be

The following
Acts repealed,
viz.

13 G. 3. c. 84.

14 G. 3. c. 14.

14 G. 3. c. 36.

14 G. 3. c. 57.

14 G. 3. c. 82.

16 G. 3. c. 39.

- No. XV.
3 Geo. IV.
c. 126.
16 G. 3. c. 44.
- 17 G. 3. c. 16.
- 18 G. 3. c. 28.
- 18 G. 3. c. 63.
- 21 G. 3. c. 20.
- 25 G. 3. c. 57.
- 52 G. 3. c. 145.
- 53 G. 3. c. 82.
- 55 G. 3. c. 119.
- 57 G. 3. c. 37.
- used on Turnpike Roads; and for explaining a provision in the said Act with respect to the Fellies and Tire of Carriages having the Fellies of the Wheels of the Guage of Six Inches or upwards; and also an Act passed in the sixteenth year of his said late Majesty's reign, intituled 'An Act for suspending, for a limited Time, so much of an Act made in the Thirteenth Year of his present Majesty's Reign, intituled "An Act to explain amend and reduce into One Act of Parliament, the "general Laws now in being for regulating the Turnpike Roads in that "Part of *Great Britain* called *England*, and for other Purposes," as is to subject Carriages having the Fellies of the wheels thereof of less breadth or Guage than Six Inches to the Payment of Double Tolls, and for vacating Contracts for leasing Tolls; and also an Act passed in the seventeenth year of his said late Majesty's reign, intituled 'An Act for limiting the Exemptions from Tolls (granted by any Act or Acts of Parliament for repairing Turnpike Roads), on account of Cattle going to and from Water or Pasture; and also an Act passed in the eighteenth year of his said late Majesty's reign intituled 'An Act for repealing so much of an Act made in the Thirteenth year of his present Majesty's Reign, intituled "An Act to explain amend and reduce into One Act "of Parliament, the general Laws now in being for regulating the "Turnpike Roads in that part of *Great Britain* called *England*, and for "other Purposes," as is to subject Carriages having the Fellies of the Wheels thereof of less Breadth or Guage than Six Inches to the Payment of Double Tolls, and for vacating Contracts for leasing Tolls; and also an Act passed in the eighteenth year of his said late Majesty's reign, intituled 'An Act for enabling Trustees under particular Turnpike Acts to meet and carry such Acts into Execution, notwithstanding they may not have met or adjourned agreeable to the Directions of such Acts, and for preventing Disputes touching the Payment of Tolls for Horses or Carriages belonging to or employed by Officers or Soldiers on Duty; and also an Act passed in the twenty-first year of his said late Majesty's reign, intituled 'An Act for declaring certain Provisions of an Act made in the Thirteenth Year of his present Majesty, relating to the Turnpike Roads in that Part of *Great Britain* called *England*, to extend to all Acts made and to be made for repairing roads subsequent to the passing of the said Act; and also an Act passed in the twenty-fifth year of his said late Majesty's reign, intituled 'An Act to exempt Carriages carrying the Mail from paying Tolls at any Turnpike Gate in *Great Britain*; and also an Act passed in the fifty-second year of his said late Majesty's reign, intituled 'An Act to explain the Exemption from Toll in several Acts of Parliament, for Carriages employed in Husbandry, and for regulating the Tolls to be paid on other Carriages, and on Horses, in certain other Cases therein specified; and also an Act passed in the fifty-third year of his said late Majesty's reign, intituled 'An Act to amend an Act made in the Fifty-second Year of his present Majesty's Reign, intituled "An Act to explain Exemption from Toll in several Acts of "Parliament, for Carriages employed in Husbandry, and for regulating "the Tolls to be paid on other Carriages and on Horses in certain other "Cases therein specified," and for other Purposes relating thereto; and also an Act passed in the fifty-fifth year of his said late Majesty's reign, intituled 'An Act to enable the Trustees of Turnpike Roads to abate the Tolls on Carriages, and to allow of their carrying extra Weights in certain Cases; and also an Act passed in the fifty-seventh year of his said late Majesty's reign, intituled 'An Act to explain and amend an Act of the fifty-third Year of his present Majesty, relating to Tolls on Carriages used in Husbandry, and to remove Doubts as to Exemption of Carriages not wholly laden with Manure from Payment of Toll; shall be and the same is and are hereby repealed.

Not to revive
repealed Acts;

II. Provided always, and be it enacted, That nothing herein contained shall extend or be construed to extend, so as to revive or give any force or effect to any Act or Acts repealed by the said recited Acts or any of them, but such Acts shall be and continue repealed, in such and the like manner as if this Act had not been made.

III. Provided always, and be it further enacted, That nothing herein contained shall extend or be deemed or construed to extend, to prevent the suing for and recovery of any penalty incurred by any offence committed against the provisions of the said herein-before recited Acts or any of them, previous to the repeal of the said Acts in and by this Act, or to prevent or defeat any prosecution commenced or to be brought for such offence, but all penalties incurred may be sued for, and all encroachments nuisances and other offences made or committed previous to the repeal of the said Acts, against the provisions of the said recited Acts or any of them, may be abated or prosecuted in the same manner to all intents and purposes as if this Act had not been passed.

IV. And whereas it is of great importance that one uniform system should be adhered to in the laws for regulating the management and maintenance of turnpike roads throughout the kingdom; be it therefore enacted, That from and after the first day of *January* one thousand eight hundred and twenty-three, all the enactments, provisions, matters, and things in this Act contained, shall extend and be deemed construed and taken to extend to all Acts of Parliament now in force and to all Acts which shall hereafter be passed, for making, widening, turning, amending, repairing, or maintaining any turnpike road or roads, in that part of *Great Britain* called *England*, save and except where any other commencement is particularly directed by this Act, and as to such enactments, provisions, matters, and things as shall be expressly referred to and varied altered or repealed by any such Act or Acts as shall be hereafter passed.

V. And be it further enacted, That from and after the first day of *January* one thousand eight hundred and twenty-six, if the tire or tires of any wheel or wheels of any waggon cart or other such carriage which shall be used or drawn on any turnpike road, shall not be so made or constructed as not to deviate more than half an inch from a flat or level surface in wheels exceeding six inches in breadth, or more than one quarter of an inch from a flat or level surface in wheels less than six inches in breadth, or in case the several nails of the tire or tires of every such wheel or wheels shall not be so countersunk as not to project above one quarter of an inch above the surface of such tire or tires, then and in every such case the owner of every such waggon cart or other such carriage, shall for every such offence forfeit and pay the sum of five pounds, and every driver thereof the sum of forty shillings.

VI. And be it further enacted, That from and after the first day of *January* one thousand eight hundred and twenty-six, no waggon or other such carriage shall be allowed to travel or be used on any road with the fellies of the wheels thereof of a less breadth than three inches; and from and after the day and year last-mentioned, if any waggon or other such carriage having the fellies of the wheels thereof of less breadth than three inches shall be used or drawn on any turnpike road, the owner of every such waggon or other such carriage so used shall for every such offence forfeit and pay any sum not exceeding five pounds, and every driver thereof not being the owner, any sum not exceeding forty shillings.

VII. And be it further enacted, That from and after the said first day of *January* one thousand eight hundred and twenty-three, the trustees or commissioners appointed by virtue of or under the authority of any Act or Acts of Parliament made or to be made for making or maintaining any turnpike road, shall and they are hereby required to demand and take or cause to be demanded and taken, for every waggon, wain, cart, or other such carriage having the fellies of the wheels thereof of less breadth than four and a half inches at the bottom or soles thereof, or for the horse or horses or cattle drawing the same, one half more than the tolls which are or shall be payable for any carriage of the same description having the wheels thereof of the breadth of six inches; and for every waggon, wain, cart, or other such carriage having the fellies of the wheels

No. XV.

3 Geo. IV.

c. 126.

nor to prevent the Recovery of Penalties incurred for Offences against Acts repealed.

After Jan. 1. 1823, this Act to extend to all Local Acts for making and repairing Turnpike Roads.

After Jan. 1, 1826, all Wheels of Waggons and other Carriages to be of the Construction herein mentioned.

Penalty 5*l.* on the Owner, and 4*0s.* on the Driver.

Nor shall any Waggon or Cart be used with Wheels of less Breadth than three Inches on any Turnpike Road.

Penalty.

After Jan. 1. 1823, Waggons, &c., having the Fellies of Wheels of less Breadth than Four and a Half Inches, to pay One Half more than the Toll payable on Waggons, &c., having Six Inch

Wheels. Where the Wheels shall be Four and a Half Inches, and less than Six Inches in Breadth One-fourth more Toll shall be paid.

No. XV.

Geo. IV.

c. 126.

Where any Act now in force has a Scale of Tolls on Waggon, &c., with less than Six Inch Wheels, such Scale shall be continued.

Where Waggon or Carts are constructed in a particular Manner, Trustees may make Order that the Toll to be taken shall not be less than Two-thirds of the full Toll.

Breadth of Wheels not to extend to Coaches, &c.

Power to Trustees to measure Wheels.

Penalty on obstructing Measurement, not exceeding 5*l*.

thereof of the breadth of four and a half inches, and less than six inches at the bottom or soles thereof, or for the horse or horses or other cattle drawing the same, one-fourth more than the tolls or duties which are or shall be payable on any carriage of the like description having the wheels thereof of the breadth of six inches, by any Act or Acts of Parliament now in force or hereafter to be passed, for making or maintaining any turnpike road, before any such waggon, wain, cart, or other carriage respectively shall be permitted to pass through any turnpike gate or gates bar or bars where tolls shall be payable by virtue of any such Acts.

VIII. Provided always, and be it further enacted, That where any particular Act or Acts of Parliament now in force for the making repairing or maintaining any turnpike road, shall direct an higher rate of toll or tolls to be taken on any waggon, wain, cart, or other such carriage having the felkes of the wheels thereof of less breadth than six inches, and such higher rate is more than the addition which is hereinbefore directed to be taken, such higher rate of tolls in and by such Act or Acts imposed shall continue to be levied and collected on the road or roads to which the said Act or Acts relate in the proportions therein fixed.

IX. And be it further enacted, That where any waggon or cart shall have the sole or bottom of the wheels thereof rolling on a flat surface, and the nails of the tire of such wheels countersunk and be cylindrical (that is to say) of the same diameter on the inside next the carriage as on the outside, so that when such wheels shall be rolling on a flat or level surface the whole breadth thereof shall bear equally on such flat or level surface, and shall have the opposite ends of the axletrees of such waggon cart or other carriage, so far as the same shall be inserted into the respective naves of the wheels thereof, horizontal, and in the continuance of one straight line, without forming any angle with each other, and in each pair of wheels belonging to such carriage the lower parts when resting on the ground shall be at the same distance from each other as the upper parts of such wheels, it shall and may be lawful for the trustees or commissioners of any turnpike road, at a general meeting, if they shall think fit so to do, to make an order for every such waggon and cart to pass through any toll gate or bar under the superintendence of the trustees or commissioners making such order, upon paying only so much of the tolls and duties as shall not be less than two-thirds of the full toll or duty payable by any turnpike Act on such waggon cart or other carriage, and the horse or horses or cattle drawing the same.

X. Provided always, and be it further enacted, That nothing herein contained relating to the breadth of the wheels of carriages, or to the tolls payable thereon, shall extend or be construed to extend to any chaise marine, coach, landau, berlin, barouche, sociable, chariot, calash, hearse, break, chaise, curricule, gig, chair, or taxed cart, market cart, or other cart for the conveyance of passengers or light goods or articles.

XI. And be it further enacted, That it shall and may be lawful for any trustee or commissioner of any turnpike road, and for every collector or his deputy or deputies or other person acting by or under the authority of the trustees or commissioners of any turnpike road or of their lessee or lessees of tolls, to measure and examine or cause to be measured and examined, the breadth and construction of the wheels of every waggon cart or other such carriage passing on such turnpike road; such measurement and examination to take place if the trustee commissioner or other authorized persons making the same shall so require, previously to such waggon cart or other carriage being allowed to pass through any toll gate or bar at which toll shall be payable; and if any owner or driver of any such waggon cart or other carriage shall turn or drive out of the road in order to avoid or evade the measuring of the wheels of such waggon cart or other carriage, or if any such owner driver or any other person shall refuse to allow the wheels of any such waggon cart or other carriage to be measured and the construction thereof examined, or shall attempt to pass through any toll gate or bar before such measurement and

examination shall be made (the same having been required) or shall in any way hinder or obstruct any such trustee or commissioner, or other authorized person in making such measurement and examination, every such owner driver or other person so misbehaving shall for every such offence forfeit and pay any sum not exceeding five pounds; and that it shall not be lawful for any such waggon cart or other carriage not permitted to be measured or examined as aforesaid, to pass along any turnpike road; and if any collector or his deputy or any other person appointed to collect the tolls shall allow the same to pass before such measurement and examination shall be made (the same having been required) every collector deputy or other person shall for every offence forfeit and pay any sum not exceeding five pounds.

XII. And for regulating the weights to be allowed to waggons, wains, carts, and other carriages, be it further enacted, That the weights hereafter next specified shall be allowed to every waggon, wain, cart, or other such carriage (that is to say) to every waggon wain or other four-wheeled carriage having the fellies of the wheels thereof of the breadth of nine inches at the bottom or soles thereof, together with the loading of such carriage, six ton ten hundred weight in summer, and six ton in winter; to every cart or other such two-wheeled carriage having the fellies of the wheels thereof of the like breadth, together with the loading of such carriage, three ton ten hundred weight in summer, and three ton in winter; to every waggon wain or other such four-wheeled carriage having the fellies of the wheels thereof of the breadth of six inches and less than nine inches at the bottom or soles thereof, together with the loading of such carriage, four ton fifteen hundred weight in summer, and four ton five hundred weight in winter; to every cart or other such two-wheeled carriage having the fellies of the wheels thereof of the breadth last-mentioned at the bottom or soles thereof, together with the loading of such last-mentioned carriage, three tons in summer, and two ton fifteen hundred weight in winter; to every waggon wain or other such four-wheeled carriage having the fellies of the wheels thereof of the breadth of four inches and a half and less than six inches at the bottom or soles thereof, together with the loading of such carriage, four ton five hundred weight in summer, and three ton fifteen hundred weight in winter; to every cart or other such two-wheeled carriage having the fellies of the wheels thereof of the breadth last-mentioned at the bottom or soles thereof, together with the loading of such carriage, two ton twelve hundred weight in summer, and two ton seven hundred weight in winter; to every waggon wain or other such four-wheeled carriage having the fellies of the wheels thereof of a less breadth than four inches and a half at the bottom or soles thereof, together with the loading of such carriage, three ton fifteen hundred weight in summer, and three ton five hundred weight in winter; to every cart or other such two-wheeled carriage having the fellies of the wheels thereof of the breadth last-mentioned, together with the loading of such carriage, one ton fifteen hundred weight in summer, and one ton ten hundred weight in winter; and for the several purposes of this Act, it shall be deemed summer from the first day of *May* to the thirty-first day of *October*, both days inclusive, and winter from the first day of *November* to the thirtieth day of *April*, both days inclusive.

XIII. And be it further enacted, That to every caravan or other four-wheeled carriage used for the conveyance of goods, and built and constructed with springs, shall be allowed the weights following: That is to say, for every such carriage three tons and fifteen hundred weight in winter, and four tons five hundred weight in summer.

XIV. Provided always, and be it further enacted, That to each and every dray with two wheels of not less than four inches and a half in breadth, and drawn by not more than three horses, and used in *London* or within the bills of mortality, there shall be allowed at all times of the year, together with the loading of such dray, the full weight of two ton sixteen hundred weight; any thing in this or any other Act of Parliament to the contrary notwithstanding.

No. XV.

3 Geo. IV.
c. 126.

Penalty on Toll
Collector allow-
ing Waggons to
pass before
Measurement,
&c., not ex-
ceeding 5*l*.

Regulating the
Weights of
Waggons, &c.

Additional
Weights for
Carriages built
with Springs.

Two-wheeled
Drays drawn
with Three
Horses allowed
Two Tons
16 Cwt.

No. XV.
3 Geo. IV.
c. 126.

Additional
Tolls for Over-
weight.

Regulations as
to Weight not
to extend to
Manure, &c.

Contractors of
Tolls may be
released from
their Contracts,
so far as regards
Tolls or Penal-
ties for Over-
weight, on giv-
ing Notice to
the Treasurer or
Clerk of the
Trustees by
September 1,
1822.

New Contracts
may be made
Contract-

XV. And be it further enacted, That it shall and may be lawful for all trustees and commissioners appointed by or under any Act or Acts of Parliament for the making or maintaining of any turnpike road, or for any person or persons authorized by them, and they are hereby empowered and required to receive take and demand over and above the tolls payable by any Act or Acts of Parliament now in force or hereafter to be passed, the following sums of money as additional toll for every hundred weight of one hundred and twelve pounds to the hundred, which any waggon cart or other such carriage, together with the loading thereof, shall weigh at any weighing engine over and above the weights herein-before allowed to each of them respectively; (that is to say,) for the first and second hundred of such overweight, the sum of threepence for each hundred; for every hundred of such overweight above two hundred and not exceeding five hundred, the sum of sixpence; for every hundred of such overweight above five hundred and not exceeding ten hundred, the sum of two shillings and sixpence; and for every hundred of such overweight exceeding ten hundred, the sum of five shillings; which said additional sums or tolls hereby granted and made payable at any weighing engine shall and may be levied and recovered in any of the cases aforesaid in such manner as any other toll or duty payable on the road on which any such weighing engine shall be erected is or shall be by law to be levied and recovered, and the monies arising therefrom shall be applied to the repairs of the turnpike road on which the same shall be recovered.

XVI. Provided always, and be it further enacted, That the regulations of weight herein-before mentioned and provided shall not extend or be deemed or construed to extend to any waggons carts or other carriages carrying only manure or lime for the improvement of land, or any hay, straw, fodder, or corn unthrashed, except hay, straw, fodder, or corn carried for sale; nor to any waggons carts or other carriages carrying only one tree or one log of timber or one block of stone or one cable or rope; nor shall the said regulations of weight extend to any chaise marine, coach, berlin, barouche, sociable, chariot, calash, hearse, break, gig, chaise, or taxed cart.

XVII. And whereas many persons may at the time of passing this Act be farmers or contractors for the tolls arising or payable on turnpike roads and for tolls and penalties for overweight, and whose contracts will not expire until after the first day of *January* one thousand eight hundred and twenty-three; for remedy whereof and for protection of such lessees or contractors, be it further enacted, That in case any lessee or lessees farmer or farmers contractor or contractors for any toll or tolls and penalties for overweight payable to any trustees or commissioners appointed by virtue of any Act of Parliament for making repairing or amending turnpike roads, whose contract will not expire until after the first day of *January* one thousand eight hundred and twenty-three, shall by reason of this Act be desirous of being discharged from his her or their contract or contracts, so far as regards such tolls or penalties for overweight, and of such his her or their desire shall on or before the first day of *September* one thousand eight hundred and twenty-two, give notice in writing to the treasurer or clerk of any such trustees, then and in every such case all such farmers lessees or contractors shall from and after the said first day of *January* one thousand eight hundred and twenty-three, be released and discharged from their respective contracts so far as the same relate to such tolls or penalties for overweight; and all and every such contracts shall from thenceforth cease and be null and void as to the residue of the term or time then so come and unexpired therein, so far as such contracts relate to such tolls or penalties for overweight; any thing in such leases or agreements to the contrary notwithstanding.

XVIII. Provided also, and be it enacted, That in case any such lessee or lessees farmer or farmers contractor or contractors shall give such notice of determining his her or their contract as herein-before mentioned, then and in every such case it shall be lawful for such trustees or commissioners, if they think fit, to make any new contract or contracts with such lessee or lessees farmer or farmers contractor or contractors or to

make any compensation to him her or them in respect of such tolls or penalties for overweight or to cause the said tolls or penalties for overweight to be relet on a day and at a place to be by them appointed, of which one month's notice at least shall be given, and thereupon to proceed to relet the same, and to relet the same for the best price they may then be enabled to obtain for the same without being compelled to put up the said tolls or penalties for overweight at the sum at which they were last let, or to have any other meeting for the letting thereof; any law or custom to the contrary notwithstanding.

XIX. And be it enacted, That it shall not be lawful for the trustees or commissioners of any turnpike road their lessee or lessees collector or collectors or other officers to make any composition for any additional tolls or duties for or in respect of the overweight or in any other manner as to the weight which any waggon, wain, cart, or carriage shall carry or weigh, any law to the contrary thereof notwithstanding; but every contract and agreement for such composition for overweight shall be null and void to all intents and purposes whatsoever; and every lessee collector or other officer entering into or agreeing to any such composition, and every person or persons with whom any such composition or agreement shall be made or entered into, shall for every such composition or agreement and for every abatement of toll for overweight in consequence thereof respectively forfeit and pay the sum of fifty pounds to any person or persons suing for the same.

XX. And be it further enacted, That if any person or persons shall unload or cause to be unladen any goods wares or merchandize from any cart waggon or other carriage at or before the same shall come to any turnpike gate or weighing engine erected by virtue or in pursuance of this or any other Act made for the repair or preservation of any turnpike road, or shall load or lay upon such carriage after the same shall have passed any such turnpike or weighing engine any goods wares or merchandize taken or unladen from any horse cart or other carriages belonging to or hired or borrowed by the same waggoner or carrier in order to avoid the payment of the said respective duties payable for overweight; or if any person shall so unload in order to carry considerable quantities of goods through any turnpike gate or by any weighing engine in one and the same day and thereby pay less toll at such turnpike gate or weighing engine than would have been paid if such goods wares or merchandize had not been so unladen; or if any driver of any waggon or cart shall not wait a reasonable time whilst any other carriage shall be weighed which shall have come to the weighing engine before the carriage of which he shall be the driver; or if the driver of any waggon or cart shall refuse or delay to remove or drive any such waggon or cart from the weighing machine in order by such neglect or refusal to impede or delay the weighing of any other waggon or cart, or shall turn or drive out of any road in order to avoid or evade the weighing of any waggon or cart; each and every person so offending in any of the cases aforesaid and being thereof lawfully convicted before one or more justice or justices of the peace for the limit where the offence shall be committed upon the oath of one or more credible witness or witnesses, shall forfeit and pay the sum of five pounds, to be levied upon the goods and chattels of the owner of such cart waggon or other carriage; and each and every driver not being the owner of such waggon or carriage so offending and being thereof convicted as aforesaid shall forfeit and pay any sum not exceeding forty shillings, and in case of non-payment thereof shall be committed to the house of correction for any time not exceeding two calendar months.

XXI. And be it further enacted, That it shall and may be lawful for the said trustees or commissioners at any of their respective meetings, if they think proper, to order and cause to be built and erected at any of the turnpikes or toll gates on the roads under their care and management, or at such distance therefrom as they shall think expedient, one or more crane or cranes machines or engines with a suitable house or other building thereto proper for the weighing of waggons or carriages convey-

No. XV.

3 Geo. IV.

c. 126.

Trustees not to make Composition for Overweight.

Penalty 50*l*.

Penalty on unloading Goods, &c., to evade Toll, or obstructing the weighing, 5*l*. on the Owner of the Waggon, &c., and not exceeding 40*s*. on the Driver.

Power given for erecting Weighing Machines.

No. XV.
3 Geo. IV.
c. 126.

Where Weighing Engines are erected, Toll Keepers to weigh Waggon, &c., of greater Weight than allowed, and not suffer them to pass without paying the additional Toll. Penalty on obstructing the weighing not exceeding 5*l*.

Trustees, &c., may cause Waggon, &c., to return to be weighed, in case of Neglect of Duty of the Collector.

Surveyors to make convenient Places for turning Carriages where Weighing Engines are erected.

Drivers refusing to return, to forfeit not exceeding 5*l*.

Where Turnpike Roads on different Trusts meet, Trustees to fix on some place for erecting a Weighing Engine, and proportion the Expence, &c.

ing any goods or merchandize whatsoever, and by notice on a board for that purpose to be put up at every such weighing machine, to order and direct all and every such waggons or carriages which shall come within one hundred yards of any crane machine or engine to be weighed, together with the loading thereof.

XXII. And be it further enacted, That the keeper of every toll gate or bar where any weighing engine shall be erected or any other person appointed or to be appointed by the trustees or commissioners or by their lessee or lessees to the care of such weighing engine, shall and is hereby required to weigh all such waggons carts and other carriages liable to be weighed which shall pass loaded through such gates or bars respectively, and which he shall believe to carry greater weights than are allowed to pass without paying the said additional toll; and if any collector or person so appointed shall permit any such waggon cart or other carriage to pass by or through any such toll gate with greater weights than are hereby allowed without weighing the same and receiving such additional tolls as aforesaid, he shall for every such offence forfeit the sum of five pounds; and if the owner or driver of any waggon cart or other carriage shall refuse to allow the same to be weighed, or shall resist any gate keeper or toll collector in weighing the same, every owner or driver so offending shall forfeit and pay any sum not exceeding five pounds.

XXIII. And in order to detect the said collector or receiver in any fraudulent contrivance or neglect of duty in the matters aforesaid, be it further enacted, That it shall and may be lawful for any trustee or commissioner or surveyor of every turnpike road, if he shall suspect any such connivance or neglect as aforesaid, to cause any waggon cart or other carriage which shall have passed through any toll gate where any weighing engine shall be erected and shall not have passed above three hundred yards beyond such toll gate to return to such weighing engine and be there weighed with the loading which passed through such toll gate in the presence of such trustee or commissioner or surveyor, upon requiring the driver thereof to drive such carriage back to such weighing engine, and upon paying or tendering to him the sum of one shilling for so doing, which sum of one shilling shall be returned to the person paying the same, if upon weighing such carriage and the loading thereof it shall be found above the weight hereby allowed.

XXIV. And for the better enforcing the authority of this Act, be it further enacted, That the surveyors of every turnpike road shall and they are hereby authorized and required to make convenient places for turning such carriages upon every such turnpike road where any weighing engine shall be erected within three hundred yards of such toll gate on each side thereof, if the ground will admit of the same; and if the driver of any such carriage being so requested to return with his carriage to such weighing engine shall neglect or refuse so to do he shall forfeit any sum not exceeding five pounds; and it shall and may be lawful for any peace officer or other person or persons being then present upon such neglect or refusal to drive and take such carriage back to such weighing engine in order to be weighed as aforesaid.

XXV. Provided also, and be it further enacted, That when two or more turnpike roads meet at or near the same place it shall and may be lawful for the trustees or commissioners of such turnpike roads respectively at a meeting to be held for that purpose to fix upon some convenient place to erect a weighing engine upon, which will accommodate all such turnpike roads, and by agreement amongst themselves at such meeting to proportion the expences which may attend the making, erecting, maintaining, and keeping in repair such weighing engine, and likewise the money arising from forfeitures to be incurred for overweight at such weighing machine amongst all such turnpike roads in such manner as to them shall appear just and reasonable.

XXVI. And be it further enacted, That in every case in which under toll on Manure, &c., contained in any Act to be in force notwithstanding the same should be into or brought from an adjoining Parish.

any Act or Acts of Parliament relating to any turnpike road, there is an exemption from toll or duty in respect of any horse, mule, ass, ox, waggon, cart, or other carriage, drawing or carrying any dung, mould, marl, or compost of any nature or kind soever for improving or manuring the land, or hay straw or any other fodder for cattle, or materials for repairing any turnpike road or highway, such exemption shall be deemed to extend in respect of every such waggon cart or other carriage, and also in respect to the cattle drawing the same going empty or loaded only with implements necessary for more convenient carriage, or loading or unloading such lading, or returning empty or with such implements as aforesaid, having been so laden, notwithstanding the said waggon cart or other carriage shall for the purpose aforesaid go to or return from any parish or place in which the said turnpike does not lie.

XXVII. Provided always, and be it further enacted, That for the preventing of frauds on toll collectors by waggons carts or other carriages passing empty or loaded only with implements necessary for the more convenient carriage of or for loading or unloading manure or materials for the repair of any turnpike road or highway through turnpike gates under pretence of going for such manure or materials, the owner or driver of every such empty waggon cart or carriage claiming the same exemptions, or any of them, shall in all cases pay the toll in respect of such waggon cart or other carriage before the same shall be permitted to pass through such turnpike gate; and the collector of such toll shall thereupon deliver to such owner or driver a ticket to be marked "Manure Exemption" or "Road Materials" (as the case may be) with the name of the gate and the date when delivered and the amount of the toll so paid; all which sum or sums so paid shall be repaid to the owner or driver of such waggon cart or other carriage upon his or their returning with such waggon cart or other carriage so laden as aforesaid, and producing such ticket; and every collector of such toll refusing to give such ticket on receiving the toll, or refusing or neglecting to return the same toll upon the return of such waggon cart or other carriage so laden, and re-delivery of the "Manure Exemption" or "Road Materials" ticket (as the case may be), shall for every such offence forfeit and pay to the owner of such waggon cart or other carriage a penalty of not more than five pounds upon conviction thereof before one or more justice or justices of the peace for the county, riding, division, or place where such offence shall be committed upon the oath of one or more credible witness or witnesses.

XXVIII. And be it further enacted, That the owner or driver of any waggon cart or other carriage laden with manure for land or materials for any turnpike road or highway passing through any turnpike gate or otherwise passing on or across any turnpike road shall not be liable to pay any toll, nor shall any toll be demanded for such carriage so laden or the cattle drawing the same, by reason only of any basket or baskets empty sack or sacks or spade shovel or fork necessary for loading or unloading such manure or materials being in or upon any such waggon cart or other carriage in addition to such manure or materials, if the loading thereof is substantially manure for land or materials for the repair of any turnpike road or highway as aforesaid; any thing in any Act contained to the contrary thereof notwithstanding.

XXIX. And be it further enacted, That all horses travelling for hire under the post horse duties Acts, having passed through any turnpike gate erected or to be erected on any turnpike road, drawing any carriage in respect of which any toll shall have been paid, on returning through the turnpike gate at which the toll shall have been paid, and the other gates (if any) cleared by such payment, either without such carriage or drawing such carriage, the same being empty and without a ticket denoting a fresh hiring, shall be permitted to repass toll-free, although such horses or carriage shall not have passed through such turnpike gate on the same day; provided that such horses so travelling shall return before nine of the clock of the morning succeeding the day on which they first passed the turnpike gate at which the toll shall have been paid.

No. XV.

3 Gen. IV.
c. 126.

Tolls payable
on Waggons
going empty for
Road Materials,
&c., to be re-
paid when re-
turning laden.

Penalty for not
returning such
Tolls, not ex-
ceeding 5*l*.

Toll not to be
taken on ac-
count of
Baskets, &c.,
being in Wag-
gons, &c., laden
with Manure,
&c.

Post Horses
having passed
through any
Gate may re-
turn Toll-free
before Nine in
the Morning of
the following
Day.

No. XV.
3 Gen. IV.
c. 126.

Horses having passed through a Gate, and returning drawing a Carriage, the Toll paid on the Horses to be deducted.

Tolls to be paid upon Carriages affixed to others.

XXX. And be it further enacted, That where any horse or horses shall pass through any turnpike gate on any road not drawing any carriage, and a toll shall be paid on such horse or horses at such turnpike gate, and the same horse or horses shall return drawing any carriage on the same day or within eight hours after their first passing through such gate, the toll paid on such horse or horses on their originally passing shall be deducted from the toll payable on the same when drawing the carriage to which they shall be attached on their return, so that no higher toll shall in the whole be taken than if such horse or horses had in the first place passed through such turnpike gate drawing the said carriage.

XXXI. And whereas coaches, chariots, chaises, chairs, carts, and other carriages sometimes pass through turnpike gates affixed tied or secured to waggons or carts, and horses are sometimes sent under the charge of the drivers of such waggons and carts, and are fastened thereto; and it is expedient to determine what tolls such coaches, chariots, chaises, chairs, carts, and other carriages and horses ought to pay on passing through such gates; be it therefore enacted, That where by any Act for repairing any turnpike road no toll is directed to be taken for or in respect of any coach, chariot, chaise, or any other carriage whatsoever with four wheels passing through any turnpike gate on such road, affixed tied or secured to any waggon or cart, the same toll and no more shall and may be demanded and taken for and in respect of such coach, chariot, chaise, or other carriage, as if the same had passed through drawn by two horses; and where by any Act for repairing any turnpike road no toll is directed to be taken for or in respect of any chair cart or other carriage whatsoever with two wheels only, passing through any turnpike gate on such road so affixed tied or secured to any waggon or cart as aforesaid, the same toll and no more shall and may be demanded and taken for and in respect of such chair cart or other carriage with two wheels only, as if the same had passed through drawn by one horse only; and where any horse shall be fastened to but not used in drawing any waggon cart or other carriage, such horse shall not be liable to a higher toll than a single horse; provided that if any coach, chariot, chaise, chair, cart, or other carriage so affixed tied or secured to any waggon or cart, shall have any goods conveyed therein other than the harness thereto belonging, and such articles of package as may be necessary for the protection of such carriages, the same shall be liable to double the toll hereby imposed.

Exemptions from Tolls:
Horses and Carriages attending His Majesty, &c., or conveying Materials for Roads and Bridges;

or Manure (except Lime);

or Agricultural Produce not for Sale;

XXXII. And be it further enacted, That no toll shall be demanded or taken by virtue of this or any other Act or Acts of Parliament on any turnpike road, for any horses or carriages attending his Majesty or any of the Royal Family, or returning therefrom; or of or from any person or persons for any horse or horses or other beast or cattle, or for any waggon, wain, cart, or other carriage employed in carrying or conveying or going empty to fetch carry or convey, or returning empty from carrying or conveying, having been employed only in carrying or conveying on the same day any stones, bricks, timber, wood, gravel, or other materials for making or repairing any turnpike road or public highway, or for building rebuilding or repairing any present or any future bridge or bridges on any such road or public highway, or of or from the surveyor of any turnpike road when engaged in executing or proceeding to execute within the limits of his own or any adjoining trust, the powers of this or any other Act or Acts of Parliament for repairing maintaining or relating to any turnpike road; or for any horse beast or other cattle or carriage employed in carrying or conveying, having been employed only in carrying or conveying on the same day any dung, soil, compost, or manure (save and except lime) for improving lands or any ploughs harrows or implements of husbandry (unless laden also with some other thing not hereby exempted from toll), or any hay straw fodder for cattle and corn in the straw, which has grown or arisen on land or ground in the occupation of the owner of any such hay, straw, fodder, or corn in the straw potatoes or other agricultural produce, and which has not been bought sold or dis-

posed of nor is going to be sold or disposed of; or for any horses or other beasts employed in husbandry going to or returning from plough or harrow or to or from pasture or watering place or going to be or returning from being shod or farried, such horses or other beasts not going or returning on those occasions more than two miles on the turnpike road on which the exemption shall be claimed; or of or from any person or persons going to or returning from his her or their proper parochial church or chapel, or of or from any other person or persons going to or returning from his her or their usual place of religious worship tolerated by law on *Sundays*, or on any day on which divine service is by authority ordered to be celebrated; or of or from any inhabitant of any parish township or place going to or returning from attending the funeral of any person who shall die and be buried in the parish township or hamlet in which any turnpike road shall lie; or from any rector vicar or curate going to or returning from visiting any sick parishioner, or on other his parochial duty within his parish; or for horses carts or waggons employed only in carrying or conveying any vagrant sent by a legal pass, or any prisoner sent by any legal warrant or returning empty after having been so employed; or for any horses or carriages of whatever description employed or to be employed in conveying the mails of letters and expresses under the authority of his Majesty's postmaster general, either when employed in conveying fetching or guarding such mails or expresses, or in returning back from conveying or guarding the same; or for the horse or horses of any officers or soldiers on their march or on duty, or for any horse or horses or other beast or any cart carriage or waggon employed in carrying or conveying or returning empty from carrying or conveying, having been employed only in carrying or conveying the arms or baggage of any such officers or soldiers, or employed in carrying or conveying or returning empty from having been employed only in carrying or conveying any sick wounded or disabled officers or soldiers; or for any waggon, wain, cart, or other carriage whatsoever or the horse or horses or other cattle drawing the same, employed in conveying any ordnance or barrack or commissariat or other public stores of or belonging to his Majesty, or for the use of his Majesty's forces, or returning empty from having been so employed; or for any carriage conveying volunteer infantry, or for any horse furnished by or for any person belonging to any corps of yeomanry or volunteer cavalry or infantry, and rode by him in going to or returning from any place appointed for and on the days of exercise inspection or review, or on other public duty, provided that such person shall be dressed in the uniform of his corps, and shall have his arms furniture and accoutrements according to the regulations of such corps at the time of claiming the exemption; or for any horses or carriages carrying or conveying any person or persons to or from any election or elections of a knight or knights of the shire to serve in Parliament for the county or counties in which such turnpike road shall be situated; or for any horses or carriages which shall only cross any turnpike road, or shall not pass above one hundred yards thereon.

XXXIII. Provided always, and be it enacted, That so much of this Act as directs that no toll shall be demanded or taken from any person or persons going to or returning from his her or their proper parochial church or chapel, or of or from any other person or persons going to or returning from his her or their usual place of religious worship tolerated by law, on *Sundays*, or on any day on which divine service is ordered by authority to be celebrated, shall not extend or be construed to extend so as to exempt any such person or persons from the payment of toll at any turnpike gate or gates situate within the distance of five miles of the *Royal Exchange* in the city of *London*, or within the distance of five miles of *Westminster Hall* in the city and liberties of *Westminster*.

XXXIV. Provided also, and be it enacted, That nothing herein contained shall extend or be construed to extend, so as to exempt any waggon cart or other carriage laden with dung, soil, compost, or manure for ma-

laden with Manure, if imposed by any local A

No. XV.
3 Geo. IV.
c. 126.

or for Horses employed in Husbandry, &c.;
or for going to or returning from Church;
or for attending Funerals;
or from Ministers attending their Duty;
or for conveying Vagrants;
or for conveying the Mails;

or for Horses of Officers or Soldiers on Duty;
or for conveying Baggage, or any Sick Ordnance or Public Stores;
or for Horses and Carriages used by Corps of Yeomanry, &c.;

or for conveying Persons to or from County Elections; or for crossing Roads, &c.

Exemption from Toll on *Sundays*, &c., for Persons going to and returning from Church not to extend to any Turnpike within the Distance of Five Miles of *London*, &c.

Not to exempt from Toll any Waggon, &c..

No. XV.
3 Geo. IV.
c. 126.

Exempting Car-
riages convey-
ing King's
Stores, &c.,
from Penalties
for Overweight.

Penalty not ex-
ceeding 5*l*. on
fraudulently
taking the Be-
nefit of Exemp-
tion.

Trustees to put
up a Table of
the Tolls.

Tickets denot-
ing Payment of
Tolls to be pro-
vided and de-
livered to the
Persons paying
the Toll.

Two Oxen to be
considered as
One Horse.

For Recovery
of Tolls.

Collector may
"distrain.

nuring land, or any horse or other beast drawing the same from any toll imposed in respect thereof by virtue of any local Act or Acts now passed, whereby such toll has been imposed for the maintenance of the roads therein respectively mentioned.

XXXV. And be it further enacted, That no person owning or driving or causing to be driven any waggon, wain, cart, or other carriage provided for the service of his Majesty's forces, or conveying any ordnance or barrack or commissariat or other public stores of or belonging to his Majesty or for the use of his Majesty's forces, shall be subject to any additional toll penalty or forfeiture for overweight; nor shall any such waggon, wain, cart, or other carriage or the horse or horses drawing the same, while so employed be stopped or detained by reason of any weight in any such waggon, wain, cart, or other carriage, or of being drawn by any number of horses or oxen; but it shall be lawful for the owner or driver of any such waggon, wain, cart, or other carriage, to put any number of horses or oxen to such waggon, wain, cart, or other carriage; any thing in any Act or Acts of Parliament relating to highways or turnpike roads, or in this Act contained to the contrary notwithstanding.

XXXVI. And be it further enacted, That if any person or persons shall by any fraudulent or collusive means whatsoever claim or take the benefit of any exemption from toll or from overweight, or for using any additional horse or horses, or of any other exemption or exemptions whatsoever in this Act contained, every such person shall for every such offence forfeit and pay any sum not exceeding five pounds; and in all cases the proof of exemption shall be upon the person claiming the same.

XXXVII. And be it further enacted, That on or before the first day of *January* one thousand eight hundred and twenty-three, the trustees and commissioners of every turnpike road shall, and they are hereby required to put up or cause to be put up and afterwards to be continued at every toll gate within their respective districts, a table painted in distinct and legible black letters on a board with a white ground, containing at the top thereof the name of the gate at which the same shall be put up, and also a list of all the tolls payable at every such gate, distinguishing the several tolls and the different sorts of carriages for which they are to be paid, where there shall be any variation therein, and also a list of the several gates which shall be wholly or partially cleared by the payment of toll at the toll gate or bar where such table of tolls shall be fixed; and the said trustees or commissioners shall also provide tickets denoting the payment of toll, and on such several tickets shall be named and specified the name of the gate at which the same respectively shall be delivered, and also the names of the several gates freed by such payment, one of which tickets shall be delivered *gratis* to the person paying the toll; and on the production of such ticket at any gate or gates therein mentioned as being cleared as aforesaid by the payment of the toll at the gate where such ticket was delivered, the person producing the same shall pass through the gate or gates therein mentioned, without paying any further or additional toll.

XXXVIII. And be it further enacted, That in all carriages wherein oxen or neat cattle shall be used, two oxen or neat cattle shall be considered as one horse, for all the purposes mentioned in this Act or any particular turnpike Act with respect to tolls or other things.

XXXIX. And be it further enacted, That if any person subject or liable to the payment of any of the toll or tolls under and by virtue of this or any other Act of Parliament for making repairing or maintaining any turnpike road, shall after demand thereof made neglect or refuse to pay the same or any part or parts thereof, it shall be lawful for the person or persons authorized or appointed to collect such tolls by himself or themselves, or taking such assistance as he or they shall think necessary to seize and distrain any horse, beast, cattle, carriage, or other thing upon or in respect of which any such toll is imposed, together with their respective bridles, saddles, gears, harness, or accoutrements, (except the bridle or reins of any horse or other beast separate from the horse or beast,) or any carriage in respect of the horses or cattle

drawing the carriage on which such toll is imposed, or any of the goods or chattels of the person or persons so neglecting or refusing to pay; and if the toll or any part thereof so neglected or refused to be paid and the reasonable charges of such seizure and distress shall not be paid within the space of four days next after such seizure and distress made, the person or persons so seizing and distraining may sell the horse, beast, cattle, carriages or things so seized and distrained, or a sufficient part thereof, returning the overplus of the money to arise by such sale (if any) and what shall remain unsold upon demand to the owner thereof, after such tolls and the reasonable charges occasioned by such seizure distress and sale shall be deducted.

XL. And be it further enacted, That if any dispute shall happen or arise about the amount of the tolls due or the charges of making keeping or selling any distress made for non-payment of any tolls, it shall be lawful for the collector or the person distraining to retain such distress or the money arising from the sale thereof (as the case may be), until the amount of the tolls due and the charges of the making keeping and selling the distress be ascertained by some justice of the peace for the county division or place wherein the turnpike or toll gate at which the toll in dispute shall be payable shall or may be situate, who, upon application made to him for that purpose, shall examine the matter on the oath of the parties or other witness or witnesses (which oath such justice is hereby authorized and empowered to administer), and shall determine the amount of the tolls due and shall award such costs and charges to either party as to the said justice shall appear right and proper; all which costs and charges shall and may be levied and recovered in case of non-payment thereof forthwith by distress and sale of the goods and chattels of the person or persons so awarded or directed to pay the same by warrant under the hand and seal of such justice, rendering the overplus (if any) upon demand, after deducting the costs and charges of making such distress and sale, to the person or persons whose goods and chattels shall have been so distrained and sold.

XLI. And be it further enacted, That if any person shall with any horse, cattle, beast, or carriage, go off or pass from any turnpike road through or over any land or ground near or adjoining thereto, (not being a public highway, and such person not being the owner, or occupier, or servant, or one of the family of the owner or occupier of such land or ground) with intent to evade the payment of the tolls granted by any Act of Parliament; or if any owner or occupier of any such land or ground shall knowingly or willingly permit or suffer any person, (except as aforesaid,) with any horse, cattle, beast, or carriage whatsoever to go or pass through or over such land or ground with intent to evade any such tolls; or if any person shall give or receive from any person other than the collectors of the tolls, or forge counterfeit or alter any note or ticket directed to be given with intent to evade the payment of the tolls or any part thereof; or if any person shall fraudulently or forcibly pass through any such toll gate with any horse, cattle, beast, or carriage; or shall leave upon the said road any horse, cattle, beast, or carriage whatsoever, by reason whereof the payment of any tolls or duties shall be avoided or lessened; or shall take off or cause to be taken off any horse or other beast or cattle from any carriage either before or after having passed through any toll gate, or having passed through any toll gate shall afterwards add or put any horse or other beast to any such carriage, and draw therewith upon any part of any turnpike road, so as to increase the number of horses or other beasts drawing the said carriage after the same shall have passed through any toll gate, whereby the payment of all or any of the tolls shall or may be evaded; or if any person shall do any other Act whatever in order or with intent to evade the payment of all or any of the tolls and whereby the same shall be evaded, every such person shall for every such offence forfeit and pay any sum not exceeding five pounds.

XLII. And be it further enacted, That it shall and may be lawful for Trustees may compound for Tolls, for a Term not exceeding Three Year

No. XV.

3 Geo. IV.
c. 126.

If Toll and
Charges be not
paid in Four
Days, Distress
may be sold.

Any Justice
may settle Dis-
putes concern-
ing Tolls.

Penalty not ex-
ceeding 5*l*. for
evading Tolls.

No. XV.
3 Geo. IV.
c. 126.

Such Composition not to extend to Overweight.

Trustees may reduce Tolls;

and afterwards advance them.

Reduction not to be made without Consent of Creditors in certain Cases.

Reduction or Advance of Tolls to be made proportionably.

Restriction as to the erecting Toll Gates on Sides of Turnpike Roads.

the trustees or commissioners of any turnpike roads from time to time, as they shall see convenient, to compound and agree for any term not exceeding three years at any one time, with all or any of the inhabitants of the several parishes hamlets or places to or through which such road may lead or pass, for the passing of their horses cattle or carriages through all or any of the toll gates to be erected on such road or on the sides thereof; which composition shall be paid yearly in advance, and in default thereof the composition or agreement with the person or persons making such default shall thenceforth be void; and all such composition money shall be paid and applied in such manner as the tolls are directed to be paid and applied: Provided always, that no such composition shall extend to the additional tolls for overweight herein-before directed to be taken; but all such additional tolls shall be demanded and recovered notwithstanding any composition for tolls.

XLIII. And be it further enacted, That it shall and may be lawful for the trustees or commissioners appointed in and by virtue of any Act of Parliament for the repairing and amending any turnpike roads in case no power or effectual power should be given to them under the Act by which they are appointed, and they are hereby empowered at a meeting to be held for that purpose (of which one calendar month's notice shall be given in writing to be affixed on all turnpike gates which shall be then erected upon such roads, and in some public newspaper circulated in that part of the country) from time to time to lessen and reduce all or any of the tolls granted by any of the said respective Acts for and during such time as the said trustees or commissioners shall think proper; and afterwards at any meeting to be held as aforesaid from time to time, as they shall see occasion, to advance all or any of the tolls so lessened to any sum or sums of money not exceeding the several rates granted by such Acts of Parliament and this Act respectively: Provided nevertheless, That where the whole money borrowed on the credit of the tolls granted by any such Act shall not have been paid and discharged, no such tolls shall be lessened or reduced without the consent of the person or persons entitled to five-sixths of the money remaining due upon such respective tolls.

XLIV. Provided also, and be it further enacted, That in all cases where the trustees or commissioners of any turnpike road shall reduce or advance the tolls on the road or roads for which they shall act, such reduction or advance shall be made as to waggons carts and other carriages the breadth of the wheels whereof is regulated by this Act, with reference to the proportion or scale of tolls payable on such waggons carts or other carriages according to the breadth of the wheels thereof; (that is to say,) the trustees or commissioners making the reduction or advance shall reduce or advance the toll payable on waggons carts or other such carriages having the fellyes of the wheels thereof of the breadth of six inches and shall then take and demand double or other proportions (as the case may be) of such reduced or advanced tolls on waggons carts or other carriages having the fellyes of the wheels thereof of a greater or less breadth than six inches; and the reduction or advance of the proportion of toll to be payable by this or any other Act of Parliament in respect of the breadth of wheels or any other reduction or advance of tolls to be made in any other way than in manner aforesaid, shall be null and void to all intents and purposes whatsoever.

XLV. And be it further enacted, That no toll gate shall hereafter be erected on the side of any turnpike road, unless the same be ordered by the trustees or commissioners at a meeting of which fourteen days' public notice shall have been given in writing affixed upon all the toll gates erected on such road within ten miles of the place where such intended gate is to be erected, and within the trust for erecting the same, and also in some public newspaper circulated in that part of the country specifying the place where such toll gate is proposed to be erected, and unless five trustees or commissioners at least shall sign the said order at such meeting.

XLVI. And be it enacted, That if the trustees or commissioners appointed Gates to be erected contrary to any Act of Parliament, Justices may order them to be removed.

pointed to put any Act of Parliament made for the repair of any turnpike road into execution shall exceed their power by erecting or continuing any gate or gates turnpike or turnpikes where they have not any power by virtue of any Act of Parliament to erect such gate or gates turnpike or turnpikes, it shall and may be lawful for the justices of the peace for the limit where any such gate or gates turnpike or turnpikes is or shall be erected or continued in their general quarter session assembled, upon complaint of such excess of power in such trustees in a summary way to hear and determine whether such power has been exceeded, and if such power has been exceeded to order the sheriff of the county, who is hereby authorized and required to execute such order, to remove any such gate or gates turnpike or turnpikes.

XLVII. And be it enacted, That all and every mortgagee and mortgagees that hath or have taken or been in possession or shall hereafter take or be in possession of any toll gate or bar set up or erected on any turnpike road, or of any lands or tenements the rents and profits whereof are appropriated to the repairs of any part of any turnpike road, shall, within twenty-one days after he she or they shall have received notice in writing from the trustees or commissioners of such turnpike road, render an exact account in writing to such trustees or commissioners, or to such person as they shall appoint, of all monies received by such mortgagee or mortgagees or by any other person or persons for his her or their use and benefit, or by his her or their authority at such toll gate or bar or otherwise, and what he she or they have expended in keeping or repairing the same; and in case he she or they shall neglect to render such account when required as aforesaid, he she or they shall severally forfeit and pay to the said trustees or commissioners for every refusal neglect or omission the sum of fifty pounds to be applied to the use of the road on which such toll gate or bar shall be erected.

XLVIII. And be it further enacted, That if any such mortgagee or mortgagees shall keep possession of any toll gate or bar by him her or themselves, or by any other person or persons on his her or their behalf, and receive the tolls or duties thereat, or of any such rents and profits as aforesaid after such mortgagee or mortgagees shall have received the full sum or sums of money due on their respective mortgage or mortgages, and the interest thereof with costs, such mortgagee or mortgagees shall forfeit and pay as a penalty to the trustees or commissioners double the sum or sums of money he she or they shall have received over and above the sum or sums of money due as aforesaid, with treble costs of suit, to be recovered by the treasurer or clerk to such trustees or commissioners by action of debt, bill, plaint, or information in any of his Majesty's Courts of Record, which when recovered shall be applied to the use of the respective road or roads on which such toll gate or bar shall be placed or such rents appropriated.

XLIX. And be it further enacted, That if any mortgagee or mortgagees of any tolls, toll gates, bars, chains, toll houses, and buildings on any turnpike road shall seek to obtain the possession of the said toll gates, bars, chains, toll houses, and buildings, in order to pay himself herself or themselves the principal money and interest or any part thereof due to him her or them, it shall be competent for him her or them as lessor of lessors of the plaintiff and upon his her or their demise only and without uniting in such demise the other mortgagees of the said tolls and premises to obtain such possession; but such person or persons who shall obtain the possession thereof shall not apply the tolls which may consequently be received by him her or them to his her or their own exclusive use and benefit, but to and for the use and benefit of all the mortgagees of the said premises, *pari passu*, and in proportion to the several sums which may be due to them as such mortgagees.

L. And be it further enacted, That it shall and may be lawful for any two or more trustees or commissioners of any turnpike road, upon the death of any collector appointed to collect the tolls upon such turnpike

Commissioners may nominate another till

No. XV.

3 Geo. IV.
c. 126.

Mortgagees in Possession of the Tolls to account to the Trustees.

Penalty 50*l*.

If Mortgagee keeps Possession after he has received the Money due, he shall forfeit Double the Sum and Treble Costs.

An Action of Ejectment may be supported by one Mortgagee:

But the Tolls shall be applied for the Benefit of all the Trustees.

On Death of Collector, Trustees or next Meeting.

No. XV.
3 Geo. IV.
c. 126.

If Collector,
&c., refuse to
deliver Posses-
sion of the
House, &c.,
Justices may
remove them.

road, to nominate and appoint some other fit person in his place until the next meeting of the trustees or commissioners of such road, which person so to be nominated and appointed shall have the like power and authority and be accountable in the same manner in all respects as the person so dying had or would have been if living; and that if any toll collector or deputy collector who shall be discharged from his office by the trustees or commissioners authorized for that purpose, shall refuse to deliver up the possession of the house buildings and appurtenances which he enjoyed in right of his appointment to that office, within two days after notice of his discharge shall be given to him or left at his house; or if the wife or family of any such toll collector or deputy who shall die as aforesaid, shall refuse to deliver up the possession of such house building and appurtenances within four days after such new appointment shall be made as aforesaid, then and in either of the said cases it shall and may be lawful for any justice of the peace for the county where such turnpike house shall be by warrant under his hand and seal, to order a constable or other peace officer, with such assistance as shall be necessary, to enter such house and premises in the day-time and to remove the persons who shall be found therein, together with their goods out of such house, and to put the new-appointed officer into the possession thereof.

No Person to
gain a Settle-
ment by renting
Tolls or Resi-
dence in Toll
Houses.

LI. And be it further enacted, That no collector or person renting such tolls or residing in such toll house as aforesaid, and no apprentice or servant of any such collector or person shall thereby gain a settlement in any parish or place whatsoever; and that no tolls to be taken at any gate erected or to be erected by the trustees or commissioners of any turnpike road, nor toll house erected or to be erected for the purpose of collecting the same, nor any person in respect of such tolls or toll house shall be rated or assessed towards the payment of any poor's rates or any other public or parochial levy whatsoever.

Collectors per-
mitting Car-
riages to pass
otherwise than
allowed by the
Act, and not
prosecuting, to
forfeit not ex-
ceeding 5*l*.

LII. And be it further enacted, That if any collector or other person appointed to collect the tolls on any turnpike road shall permit or suffer any waggon, wain, cart, or other carriage to be drawn or pass upon any turnpike road within the view or with the knowledge of such collector or toll gatherer, or to pass through any toll gate or bar with wheels of a less breadth or of a different construction or drawn with a greater number of horses than by this Act allowed, or without such names and descriptions painted thereon as are herein-after directed, and shall not within the space of one week proceed for the recovery of the forfeiture or penalty hereby inflicted, or shall allow any coach, chariot, waggon, cart, or other carriage, or any passenger to pass through any toll gate at which such collector or other person shall be stationed without paying the toll payable or shall be guilty of any other misconduct in his office, every collector or other person so offending and being thereof convicted before one justice shall forfeit for every such offence any sum not exceeding five pounds, as the justice by and before whom such offender shall be convicted shall judge proper.

Toll Collectors
to put up their
Names on a
Board.

LIII. And be it further enacted, That every toll collector on every turnpike road shall place or cause to be placed on some conspicuous parts of the fronts of the several toll houses at which they shall be respectively stationed, and so that the same shall appear to public view, their christian and surnames painted in black on a board with a white ground, each of such letters of such name or names to be at least two inches in length and of a breadth in proportion; and that such board shall be and remain at such toll house during the whole of the time that the person whose name shall be expressed thereon shall be on duty thereat; and every such collector shall place or cause to be placed on the front of the toll house or toll houses at which such collectors shall be stationed the board herein before directed to be provided by the trustees or commissioners, containing the usual name of the turnpike gate where the board shall be affixed, and also the list of the tolls payable at such gate and of the several gates cleared by the payment of toll at the gate where such col-

A Board shall
also be placed
on the Front of
the Toll House
containing a List
of the Tolls
payable.

lector or collectors shall be stationed as aforesaid; and if any collector of the said tolls shall not place such boards respectively as aforesaid and keep the same there during the time he shall be such collector as aforesaid, or shall demand and take a greater or less toll from any person than he shall be authorized to do by virtue of the powers of any Act or of the orders and resolutions of the trustees or commissioners made in pursuance thereof, or shall demand and take a toll from any person or persons who shall be exempt from the payment thereof, and who shall claim such exemption, or shall refuse to permit or suffer any person or persons to read, or shall in anywise hinder any person or persons from reading the inscriptions on such boards respectively, or shall refuse to tell his christian and surname to any person or persons who shall demand the same on being paid the said tolls, or any of them, or shall in answer to such demand give a false name or names, or shall refuse or omit to give to the person paying the toll a ticket denoting the payment of the tolls and naming and specifying the toll gate at which such ticket has been delivered and the toll gate or toll gates (if any) freed by such payment, or upon the legal toll being paid or tendered shall unnecessarily detain or wilfully obstruct hinder or prevent any passenger or passengers from passing through any turnpike or toll gate, or shall make use of any scurrilous or abusive language to any trustee or commissioner traveller or passenger, then and in every such case every such toll collector shall forfeit and pay any sum not exceeding five pounds for every such offence.

LIV. Provided always, and be it enacted, That in case any toll collector or person acting as such shall offend against any of the provisions of this Act whereby any penalty shall be incurred and shall abscond or absent himself so as not to be found, then it shall and may be lawful for any justice of the peace before whom any such toll collector or person shall have been convicted of any such offence, in case of such collector or other person absconding after conviction, or in case of his or her absconding previous to conviction, then for any other justice of the peace acting for the county on an examination of the circumstances and ascertaining by the examination of witnesses that such offence has been committed by the person absconding, to order and adjudge that the penalty incurred as aforesaid shall be paid by the lessee or farmer of the tolls under whom such collector or other person shall act; all which penalties shall be levied and recovered from such lessee or farmer and applied in manner herein-after directed.

LV. And be it further enacted, That it shall and may be lawful for the trustees or commissioners of every turnpike road, at a public meeting to let to farm the tolls of the several gates erected upon their respective turnpike roads in the manner herein-after mentioned, although no express power shall have been given by any Act or Acts for that purpose; and that whenever any tolls shall hereafter be let to farm by virtue of the powers given by this or any other Act or Acts of Parliament, the following directions shall be observed; (that is to say,) the trustees or commissioners shall cause notice to be given of the time and place for letting the same, at least one month before the day to be appointed for that purpose by affixing the same upon every toll gate belonging to such turnpike road, and also by insertion thereof in some public newspaper circulated in that part of the country, and specifying in every such notice the sum which the said tolls produced in the preceding year, clear of the salary for collecting the same in case any hired collector was appointed, and that they will let such tolls by auction to the best bidder on his producing sufficient sureties for payment of the money monthly or otherwise (as in such notice shall be specified), and that they will be put up at the sum which they were let for or produced in the preceding year, clear of the salary of the collector; and to prevent fraud or any undue preference in the letting thereof, the trustees or commissioners are hereby required to provide a glass with so much sand in it as will run from one end of it to the other in one minute, which glass at the time of letting such tolls shall be set upon a table, and

No. XV.

3 Geo. IV.
c. 126.

Collector neglecting to do so, or taking a greater or less toll than what is authorized, or refusing a Ticket on Payment of Toll, or obstructing Passengers, to forfeit not exceeding 5l.

If Toll Collectors abscond, Penalties to be levied on Lessees of Tolls.

Powers for Trustees or Commissioners to farm out the Tolls.

Notice to be given for letting the Tolls.

Tolls to be put up at the Sum produced the preceding Year
Mode of receiving Biddings.

No. XV.
3 Geo. IV.
c. 126.

If Tolls be not let at such Auction, a private Tender may be accepted.

Penalty on Collectors taking more or less than the authorized Toll, &c.

Limiting Leases to Three Years. How Rent of Tolls is to be paid.

Two sufficient Sureties to join in the Agreement, and on Failure of Payment of Rent for three Days after it becomes due, Possession of Toll Gate may be taken.

Contracts and Agreements to be valid when signed by the trustees, &c.

immediately after every bidding the glass shall be turned, and as soon as the sand is run out it shall be turned again, and so for three times unless some other bidding intervenes, and if no other person shall bid until the sand shall have run through the glass three times the last bidder shall be the farmer or renter of the said tolls, and shall forthwith enter into a proper agreement for the taking thereof and paying the money at the times specified in such notice, with such surety or sureties for payment thereof and under such conditions and in such manner as the said trustees or commissioners shall think fit; and if the person being the last bidder shall not forthwith enter into such agreement, it shall and may be lawful to put up the said tolls again immediately for another bidder, and in like manner to continue putting up the same until a bidder shall be found who shall enter into such agreement; and in case no bidder shall offer or in case the same shall not be let at such auction, it shall be lawful for the said trustees or commissioners to accept a private tender for the same, and to demise or let to farm or agree to demise or let to farm all or any of such tolls, at any sum not less than the sum at or for which they shall then have been last let; or the said trustees or commissioners may appoint a collector of such tolls or fix some future day for the letting thereof, as they shall judge most proper, upon giving such notice thereof as aforesaid, and shall and may in that case put them up at such sum as they shall think fit; and if the person or persons who shall be the farmer or renter or collector or collectors of such tolls shall take a greater or less toll from any person or persons than what is authorized or directed by this or the particular turnpike Act, he or they shall for every such offence forfeit the sum of five pounds, and the said agreement for renting the tolls shall, if the said trustees or commissioners shall think fit to vacate the same, become and be null and void: Provided always, that at all such lettings the trustees or commissioners shall be entitled to bid for the tolls so to be let either by themselves or their clerk or treasurer or any other person by them respectively authorized; provided also, that no such tolls shall be demised or leased for any longer term than three years at any one time.

LVII. Provided always, and be it further enacted, That on every letting of any tolls the said trustees or commissioners shall, if they shall think fit, take of the renter or farmer thereof one two or more months' rent in advance before they shall put such renter or farmer in possession of the toll gate, bar, toll house, or turnpike, at which such tolls are to be collected, and that in every agreement to be entered into by any trustees or commissioners for the letting of any tolls, the rent or money payable for such tolls shall be reserved and made payable monthly or otherwise, as in the notice for letting the said tolls shall be specified; and the renter or farmer of such tolls shall produce two sufficient sureties to join in the said agreement, undertaking on their parts for the due and punctual payment of the rent or sum of money to be paid for the said tolls according to the terms of the agreement entered into by him; and in every case where the terms of such agreement shall not be fulfilled, but the rent or sum of money to be paid at the commencement of any one month shall not be paid when the same shall become due, but shall remain unpaid for three days after the same shall become due, then and in every such case the trustees or commissioners making any such agreement shall and they are hereby empowered, if they shall think fit, to declare the said agreement void and to re-enter and take possession of any such toll gate bar or toll house, and the tolls there collected, and to re-let the same in manner herein-before directed, or to appoint a collector or other fit and proper person to collect and receive the same, and to put out and remove the person or persons so failing in their agreement.

LVII. Provided always, and be it further enacted, That all contracts and agreements to be made or entered into for the farming or letting the tolls of any turnpike roads, signed by the trustees or commissioners letting such tolls or any two or more of them, or by their clerk or treasurer, and the lessee or farmer and his surties, of such tolls respectively, shall be good valid and effectual to all intents

and purposes, notwithstanding the same may not be by deed or under seal; any Act or Acts of Parliament or law to the contrary thereof notwithstanding.

LVIII. And be it further enacted, That during such time as the tolls or any part or parts thereof, shall be leased to any person or persons whomsoever, it shall be lawful for the lessee or lessees farmer or farmers thereof, or such other person or persons as he she or they shall by writing or writings under his her or their hand or hands authorize or appoint to demand and take such tolls so leased demised or farmed, and to use all such means and methods for the recovery thereof, in case of non-payment or evasion, as any collector of such tolls appointed under or by virtue of any Act of Parliament for the making of turnpike roads, or by this Act, is authorized and empowered to use; and such lessee or lessees farmer or farmers or other person or persons as aforesaid so demanding and taking such tolls, shall be subject to the like pains penalties and forfeitures, and shall be liable to the like actions and prosecutions as any collector of such tolls appointed by the trustees or commissioners is subject or liable to.

LIX. And be it further enacted, That in case any dispute suit or litigation shall arise touching or in anywise relating to the tolls granted by any Act of Parliament, the person or persons appointed to collect the same, or any other person or persons acting under the authority of the trustees or commissioners, shall not be incompetent to give evidence in any such dispute suit or litigation on account of his being appointed to collect such tolls.

LX. And be it further enacted, That the right interest and property of and in all the toll gates and toll houses weighing machines and other erections, and buildings, lamps, hars, toll boards, direction boards, mile-stones, posts, rails, fences and other things which shall have been or shall be erected and provided in pursuance of any Act of Parliament for making turnpike roads, with the several conveniences and appurtenances thereunto respectively belonging, and the materials of which the same shall consist, and all materials tools and implements which shall be provided for repairing the said roads, and the scrapings of the said roads, shall be vested in the trustees or commissioners acting in pursuance of such Act for the time being, and they are hereby authorized and empowered to apply and dispose of the same as they shall think fit, and to bring or cause to be brought any action or actions, and to prefer and prosecute or order and direct the preferring and prosecuting of any informations or indictments against any person or persons who shall dig up break, or pull down, steal, take, or carry away, spoil, destroy, injure, or damage any of the toll gates or toll houses weighing machines or other erections, or buildings, lamps, hars, toll boards, direction boards, milestones, posts, rails, fences, and other things, or any of the conveniences and appurtenances thereto belonging, or any of the tools implements or materials aforesaid, or shall interrupt them the said trustees or commissioners, or any of their officers, in the possession thereof; in all which proceedings it shall be sufficient to state generally such articles to be the property of the clerk for the time being to the said trustees or commissioners.

LXI. And be it further enacted, That all his Majesty's justices of the peace for the time being acting for the county or counties through which any turnpike road now does or hereafter shall pass, shall be added to and joined with the trustees or commissioners for making repairing or maintaining every such turnpike road, and shall on qualifying themselves as hereafter mentioned have all the same powers and authorities to all intents and purposes as if the said justices had severally been named or elected trustees or commissioners in or under any Act or Acts of Parliament under which such roads shall be made repaired or maintained.

LXII. And be it further enacted, That no person who shall hereafter be chosen or appointed a trustee or commissioner, shall be qualified or capable of becoming and acting as a trustee or commissioner in the execution of any Act of Parliament for making repairing or maintaining any turnpike road, unless he shall be in his own right or in the right of his wife in

No. XV.
3 Geo. IV.
c. 126.

Lessees of Tolls may appoint Persons to receive the same, who shall be subject to the like Penalties as Collectors appointed by the Trustees.

Collectors not to be incompetent to give Evidence.

The Property of Toll Houses, &c., vested in Trustees.

Actions may be brought in the Name of the Clerk.

Justices of Peace to be Trustees.

Qualification of Trustees.

No. XV.
3 Geo. IV.
c. 196.

the actual possession or receipt of the rents and profits of freehold or copyhold lands tenements or hereditaments of the clear yearly value of one hundred pounds above reprises, or shall be heir apparent of a person possessed of freehold or copyhold lands tenements or hereditaments of the clear yearly value of two hundred pounds above reprises; and unless he shall before he shall act as such trustee or commissioner take and subscribe the oath or affirmation following before any two or more of the trustees or commissioners appointed or to be appointed by or in pursuance of such Act, who are hereby authorized and empowered to administer the same in the words or to the effect following; (that is to say.)

do swear [or, being of the people
‘I called Quakers, do solemnly affirm,] That I truly and *bona fide* am
‘in my own right [or in the right of my wife] in the actual possession
‘and enjoyment of [or in the receipt of rents and profits issuing out
‘of] freehold or copyhold lands tenements or hereditaments of the
‘clear yearly value of one hundred pounds above reprises, [or am heir
‘apparent of who to the best of my knowledge
‘is seised of freehold or copyhold lands tenements or hereditaments of
‘the clear yearly value of two hundred pounds above reprises] [or that I
‘am possessed of a personal estate of ten thousand pounds, clear of all
‘debts and incumbrances, *as the case may be.*] So help me GOD.’
[Or, being a Quaker, omit the the words [‘So help me God.’]

Qualification by
Personal Property
within
ten Miles of
London.

LXIII. Provided always, and be it enacted, That nothing herein contained shall hinder or prevent any person from acting as a trustee or commissioner of any turnpike roads, any part of which are or shall be situate within ten miles of the *Royal Exchange* in *London*, who shall be possessed of personal property to the amount or value of ten thousand pounds after payment of his debts.

Trustees not to
act where Inter-
ested, or while
keeping a Vic-
tualling House,
&c.

LXIV. Provided also, and be it further enacted, That no person appointed or to be appointed a trustee or commissioner in or by virtue of any Act for repairing turnpike roads, shall be capable of acting as such in the execution of any such Act in any case where he shall be personally interested (except as herein-after provided) nor during the time he shall keep a victualling house or other house of public entertainment, or who shall sell wine, cyder, beer, ale, spirituous or other strong liquors by retail, or who shall be a lessee or farmer of the tolls on any turnpike road or of any part or parts thereof; and if any person not being qualified as aforesaid or being disqualified by any of the causes aforesaid or not having taken and subscribed the oath herein-before mentioned, or being a Quaker, not having made and subscribed the affirmation herein-before mentioned, shall nevertheless presume to act as a trustee or commissioner in the execution of any such Act, every such person shall for every such offence forfeit and pay the sum of fifty pounds to any person or persons who shall sue for the same, to be recovered with full costs of suit in any of his Majesty's Courts of Record at *Westminster*, by action of debt or on the case or by bill, plaint, suit, or information wherein no *essoign*, protection, wager of law, or more than one imparlance shall be allowed; and the person so sued or prosecuted shall prove that he is qualified and not disqualified as aforesaid, or otherwise shall pay the said penalty, without any other proof or evidence on the part of the prosecutor than that such person had acted as a trustee or commissioner in the execution of any Act for repairing turnpike roads: Provided nevertheless, that no Act or proceeding touching the execution of any such Act which shall be done or performed by any such unqualified or disqualified person previously to his being convicted of the offence before mentioned shall be thereby impeached or rendered nugatory, but all such proceedings shall be as valid and effectual as if such person had been duly qualified: Provided always, that no mortgagee or assignee of any mortgage or other security, or any lender of money upon the credit of the tolls or receiving interest thereout for the same, shall on that account only be deemed unqualified to act as a trustee or commissioner in the execution of any such Act; and any trustees or commissioners appointed or to be appointed under any such Act, who are or shall be in the com-

Penalty for
acting, not be-
ing qualified,
50*l*.

Proceedings not
to be impeached
on account of
Disqualification.

Mortgagees on
the Tolls not
disqualified on
that Account.

mission of the peace, may act as such justices of the peace in the execution of any such Act notwithstanding their being such trustees or commissioners, except in such cases only wherein they shall be personally interested otherwise than as a trustee, commissioner, mortgagee, assignee, lender of money, or holder of any security on the credit of the tolls granted by any such Act.

LXV. And be it further enacted, That no trustee or commissioner of any turnpike road shall, from and after this Act shall be in force, enjoy any office or place of profit under any Act of Parliament in execution of which he shall have been appointed or shall act as trustee or commissioner or have any share or interest in or be in any manner directly or indirectly concerned in, any contract or bargain for making or repairing or in any way relating to the road for which he shall act, or for building or repairing any toll house toll gate or weighing engine thereon, or for supplying any materials for the use thereof; nor shall any such trustee or commissioner let out for hire any waggon, wain, cart, or other carriage, or any horse cattle or team for the use of any turnpike road for which he shall act as a trustee or commissioner; nor by himself or by any other person for or on his account directly or indirectly receive any sum or sums of money to his use or benefit out of the tolls collected on the road for which he shall act during the time he shall be acting as a trustee or commissioner of such road; and if any person after having been appointed or elected a trustee or commissioner of any turnpike road shall without having first duly resigned such office at some meeting of the trustees of the road for which he shall have been elected or appointed, hold any such office or place or be concerned in any such contract or bargain or shall sell any such tools or implements or let out for hire any waggon, wain, cart, or carriage, horse, cattle, or team, or receive any money out of the tolls as aforesaid, every trustee or commissioner so offending shall for every such offence forfeit and pay the sum of one hundred pounds to any person or persons who shall sue for the same, and shall from and after the conviction of any such offence be incapable of acting as a trustee or commissioner of any turnpike road; and all acts, orders, matters, and things made or done as a trustee or commissioner by the party so convicted shall from thenceforth be null and void to all intents and purposes, and all and every such contract and bargain shall be and the same is hereby declared to be void, and shall not be enforced against or carried into effect by the other trustees or commissioners entering into the same: Provided always, that all acts, orders, matters, and things made or done by such trustee or commissioner previously to his being convicted of any such offence shall be good valid and effectual; and further provided, that nothing in this enactment contained shall extend or be deemed or construed to extend to any trustee or commissioner who shall receive any sum or sums of money paid out of the tolls of any turnpike road, as or by way of purchase money, damages, rent, recompence, or satisfaction, agreed upon or awarded to such trustee or commissioner for any lands, grounds, tenements, or hereditaments purchased or taken for the purpose of diverting or altering or for the use of the turnpike road for which he shall act as a trustee or commissioner, or for a repository for materials to be used thereon, or for the damage done to any inclosed or private grounds of any such trustee or commissioner in taking materials therefrom, or in carrying or conveying them over the same, or to prevent any such trustee or commissioner from selling or disposing of for the use of the turnpike road any materials or any timber grown or growing on the land or grounds of such trustee or commissioner.

LXVI. And be it further enacted, That when and as often as any of the trustees or commissioners save and except the justices of the peace, appointed or to be elected and appointed under any Act of Parliament for making repairing or maintaining any turnpike road shall die, or by bankruptcy insolvency or otherwise become disqualified to act, or by writing under their hands refuse to act in the execution of such Act, it shall be lawful for the surviving or remaining trustees or commissioners from time to time to elect and appoint one other fit person qualified as aforesaid to

No. XV.

3 Geo. IV.
c. 126.

Trustees and Commissioners not to hold Places of Profit or be concerned in Contracts, &c.

Penalty, 100*l*.

Contracts and Bargains void.

For appointing new Trustees on Vacancies.

No. XV.
3 Geo. IV.
c. 126.

Notice to be
given Fourteen
Days before the
Meeting.

Meetings of
Trustees.

Trustees to pay
their own Ex-
pences, except
10s. per Day
for the Use of
the Room.

Majority of
Trustees to
concur.

Three Trustees
may act (ex-
cept where any
other number
is named by any
Local Act.)

Chairman to be
appointed.

No Order to be
revoked, unless
twenty-one
Days' Notice be
given and Seven
Trustees con-
cur.

Meetings may
be held on
Emergencies.

Fourteen Days'
Notice to be
given in the
Newspapers,

the Intent of such Meeting specified, and no other Business to be then transacted.

be a trustee or commissioner in the room of every trustee or commissioner dying or becoming disqualified or refusing to act as aforesaid; provided that notice of the time and place of meeting of the trustees or commissioners for every such election be given by the clerk or clerks to such trustees or commissioners, by affixing the same in writing upon all the toll gates or turnpikes erected upon the said road for which they shall act as trustees or commissioners, and by inserting such notice in one or more of the newspapers circulating in that part of the country where such road shall pass, fourteen days at least before every such meeting, and every person who shall be elected and appointed a trustee or commissioner pursuant to the directions of this Act, shall and may act with the surviving and remaining trustees or commissioners in the execution of such Act to all intents and purposes, as if he had been therein named and appointed a trustee or commissioner.

LXVII. And be it further enacted, That the said trustees or commissioners shall and may from time to time meet at such time and place on or near their respective roads, as to them shall seem convenient, and may adjourn themselves to meet at any place or places and at such time or times as the said trustees or commissioners or the major part of them present at any meeting shall appoint; and at all their several meetings the trustees or commissioners shall pay and defray their own expences, except any sum not exceeding ten shillings *per diem* for the use of the room wherein they shall meet; and all orders and determinations of the trustees or commissioners in the execution of any such Act shall be made at meetings to be held in pursuance thereof, and not otherwise, (except in the cases hereby otherwise particularly provided for) and that no order or determination shall be made unless the major part of the trustees or commissioners present shall concur therein; and that all acts orders and proceedings relating to any such Act which are directed to be had, made, done, or exercised by or before the said trustees or commissioners, and all the powers and authorities hereby in them vested generally, shall and may be had, made, done, and exercised by the major part of the trustees or commissioners who shall be present at the respective meetings to be held by virtue of any such Act, the whole number present not being less than three (except in such cases where any other number is by any local Act or this Act named for any particular or special purpose); and that all acts orders or proceedings had made or done by or before such three trustees or commissioners shall have the same force and effect and be binding and conclusive on all persons and to all intents and purposes whatsoever as fully and effectually as if the same were had, made, done, or executed by or before all the said trustees or commissioners; and that a chairman shall and may in the first place be appointed at every meeting to be held by virtue and for the purposes of this Act, who in case of an equal number of votes (including the chairman's vote) shall have the casting or decisive vote; and that no order or determination at any meeting of the said trustees or commissioners once made agreed upon or entered into shall be revoked or altered at any subsequent meeting, unless notice of the intention to make such revocation or alteration shall have been given at a previous meeting holden for the same road, and entered in the book of proceedings of such meeting, and also by affixing such notice signed by any two or more trustees or commissioners on all the turnpike gates then erected upon such road twenty-one days at least before such meeting, nor unless such revocation or alteration shall be agreed to be made by seven trustees or commissioners at the least.

LXVIII. And be it further enacted, That if at any time it shall be thought necessary for the better execution of any Act of Parliament for making repairing or maintaining any turnpike road that the trustees or commissioners of such road should meet before the time to which any meeting may be adjourned, it shall and may be lawful for any two or more of such trustees or commissioners (or for the clerk to the said trustees or commissioners by an order in writing signed by any two or more of them)

to give notice of such earlier meeting in the manner before directed, in which notice shall be expressed the time place and purpose of such earlier meeting (such time not being less than fourteen days after publication of the said notice); and all the orders and determinations of the trustees or commissioners at all such meetings shall be as valid as if the same had been done at any other meeting of trustees or commissioners held by virtue of this Act, or the Act under and by virtue of which they shall act as trustees or commissioners: Provided always, that no other business than what shall be specified in such notice shall be transacted at any such meeting.

LXIX. And be it further enacted, That all trustees and commissioners of every turnpike road or roads shall and they are hereby required to hold a general meeting of the trust for which they shall respectively act on a day to be by them or any three or more of them appointed in the months of *April September or October*, of which meeting twenty-one days' notice shall be given by inserting the same in some newspaper or newspapers usually circulating in the county or counties in which the road or roads in respect whereof such meeting shall be held lie or are situated, which said meeting shall be called or known as "The General Annual Meeting of the Trustees or Commissioners;" and at such meeting the trustees or commissioners assembled shall elect a chairman for the purposes thereof, and shall also audit their accounts and report the state of the road or roads under their care and superintendence.

General Annual Meetings to be held.

LXX. And be it further enacted, That where a sufficient number of the trustees or commissioners of any turnpike road shall not meet on the day appointed by any such Act or Acts respectively for their first meeting, or shall not meet on the day appointed by adjournment for their meeting, or for want of a proper adjournment, by which means or by some or one of them the intent of the said Act or Acts may be frustrated, in all or either of the said cases it shall be lawful for so many of the said trustees or commissioners as shall meet, or the major part of them, or in case no such trustee or commissioner shall be present, for their clerk or clerks to cause notice in writing to be affixed on all the turnpike gates which shall be then erected on the said respective roads, or if no turnpike gate shall then be erected to cause the like notice to be affixed in the most conspicuous place in one of the principal towns or places nearest to which the roads directed to be repaired do lie, and also in some public newspaper circulated in the county in which the road shall be situate, at least ten days before the intended meeting, appointing such trustees or commissioners to meet at such place where the preceding meeting was appointed to have been held, or at the place directed for the first meeting of such trustees or commissioners, if no such preceding meeting shall have been held; and the said trustees or commissioners when met in pursuance of such notice, shall and may and they are hereby required to proceed and carry such Act or Acts into execution in the same and in as ample and full a manner to all intents and purposes as they might or could have done if no such neglect had happened.

If a sufficient Number of Trustees or Commissioners do not attend, another Meeting shall be appointed, of which Ten Days' Notice shall be given.

LXXI. And be it further enacted, That it shall not hereafter be lawful for any trustees or commissioners to continue or appoint the person who has been or may be appointed to act as their clerk in the execution of any Act or Acts of Parliament for repairing and maintaining any turnpike road, or the partner of any such clerk to be or to hold the offices of clerk and treasurer for the purposes of such Act or Acts, or to continue or appoint the person who has been or may be appointed treasurer, or the partner of any such treasurer, to be the treasurer and clerk for the purposes of such Act or Acts; and if any person shall act in both the capacities of clerk and treasurer, or if any person being the partner of any such clerk shall act as treasurer, or being the partner of such treasurer shall act as clerk in the execution of this or any other Act, every person shall for every such offence forfeit and pay the sum of fifty pounds to any person or persons who shall sue for the same, to be recovered with full costs of suit in any of his Majesty's Courts of Record at Westminster, by action of debt or on the case or by bill suit or information, wherein no

Office of Treasurer and Clerk to be kept separate.

Penalty, 50*l*.

No. XV.
3 Geo. IV.
c. 126.

Orders and Pro-
ceedings to be
entered in
Books, which
shall be open
for Inspection.

Books to be
Evidence.

Books of Ac-
count to be
kept, and to be
open to the
Inspection of
Trustees and
Creditors.

Penalty not ex-
ceeding 5*l*. on
Clerk for re-
fusing Inspec-
tion, &c.

Trustees may
sue and be sued
in the Name of
their Clerk, &c.

essoign protection or wager of law nor more than one imparlance shall be allowed.

LXXII. And be it further enacted, That all orders and proceedings of the trustees or commissioners of every turnpike road, together with the names of the trustees or commissioners present at every meeting, shall be entered in a book or books to be kept by the clerk to the said trustees or commissioners for that purpose, and be signed by the chairman of the meeting or meetings at which such orders or proceedings shall be from time to time made or had; and that such book or books shall be open at all reasonable times to the inspection of any of the trustees or commissioners, without fee or reward; and such orders and proceedings so entered and signed by the chairman of such meeting or meetings as aforesaid, shall be deemed and taken to be original orders and proceedings; which said book or books, as well as the book or books in which the oath or affirmation directed to be taken by the said trustees or commissioners shall be entered, and also the book or books directed to be kept for registering mortgages and assignments, and all entries in such books respectively shall and may be read in evidence in all courts whatsoever in all cases of appeal and in all prosecutions suits and actions whatsoever.

LXXIII. And be it further enacted, That the trustees and commissioners of every turnpike road shall, and they are hereby required, from time to time and at all times to order and direct a book or books to be provided and kept by their clerk for the time being; in which book or books such clerk shall enter or cause to be entered true and regular accounts of all sums of money received, paid, laid out, and expended for or on account of the road for which such clerk shall act, and of the several articles matters and things for which such sums of money shall have been disbursed laid out and paid; and such book or books shall at all reasonable times be open to the inspection of the said trustees or commissioners or any creditor or creditors on the tolls collected and taken on the road to which such books relate, without fee or reward; and the said trustees or commissioners and creditors or any of them shall or may take copies of or extracts from the said book or books or any part or parts thereof, without paying any thing for the same; and the said book or books shall be produced by the said clerk at all meetings of the said trustees or commissioners; and in case any clerk shall refuse to permit or shall not permit any of the said trustees or commissioners or any such creditor to inspect any such book or books or to take such copies or extracts as aforesaid, or in case such clerk shall refuse or neglect to produce such book or books at any meeting of the said trustees or commissioners, such clerk shall forfeit and pay any sum of money not exceeding five pounds, to be levied and applied in the same manner as other penalties are hereby directed to be levied and applied.

LXXIV. And be it further enacted, That the trustees and commissioners of every turnpike road may sue and be sued in the name or names of any one of such trustees or commissioners or of their clerk or clerks for the time being; and that no action or suit be brought or commenced by or against any trustees or commissioners of any turnpike road by virtue of this or any other Act or Acts of Parliament in the name or names of any one of such trustees or commissioners or their clerk or clerks shall abate or be discontinued by the death or removal of such trustee, commissioner, clerk or clerks, or any of them, or by the Act of such trustee, commissioner, clerk or clerks, or any of them without the consent of the said trustees or commissioners; but that any one of such trustees or commissioners or the clerk or clerks for the time being to the said trustees or commissioners shall always be deemed to be the plaintiff or plaintiffs defendant or defendants (as the case may be) in every such action or suit: Provided always, that every such trustee commissioner clerk or clerks shall be reimbursed and paid out of the monies belonging to the turnpike road for which he or they shall act, all such costs charges and expences as he or they shall be put unto or become chargeable with or liable to by reason of his or their being so made plaintiff or plaintiffs defendant or defendants.

LXXV. And be it further enacted, That no person shall be capable of holding any place of profit under any trustees or commissioners of any turnpike road who shall sell any wine, ale, spirituous liquors, or provisions by retail.

LXXVI. Provided always, and be it further enacted, That the trustees and commissioners of every turnpike road shall and they are hereby required to take sufficient security from every treasurer to be appointed by them for the purposes of any Act or Acts of Parliament for making repairing or maintaining any turnpike road for the due and faithful execution of his office, before such treasurer shall enter upon his office; and if they shall so think proper, shall and may also take such security from any other officer to be appointed under or by virtue of this or such other Act.

LXXVII. And be it further enacted, That all such officers as shall be appointed by any commissioners or trustees of any turnpike road shall as often as required by the commissioners or trustees render and give to them or to such person or persons as they shall for that purpose appoint, a true exact and perfect account in writing, under their respective hands with the proper vouchers, of all monies which they shall respectively to the time of rendering such accounts have received paid and disbursed by virtue of this or any other Act, or for or on account or by reason of their respective offices; and in case any money so received by any such officer shall remain in his hands, the same shall be paid to the trustees or commissioners or to such person or persons as they shall in writing under their hands authorize and empower to receive the same; and if any such officer shall refuse or wilfully neglect to render and give such account or to produce and deliver up such vouchers, or shall for the space of fourteen days after being thereunto required by the said trustees or commissioners or any three or more of them refuse or neglect to render and give up to them or to such person or persons as they shall direct or appoint all books, papers, writings, tools, matters and things in his hands custody or power relating to the road for which he shall act or which he shall have disposed of without the consent and approbation of the trustees or commissioners, then it shall be lawful for any justice of the peace for the county where the officer so making default shall be or reside upon application made to him for that purpose, by or on behalf of the trustees or commissioners to make inquiry of and concerning any such default as aforesaid in a summary way, as well by the confession of the party as by the testimony of any credible witness or witnesses upon oath without fee or reward, and by warrant under his hand and seal to cause such money as shall appear to him to be due and unpaid, to be levied by distress and sale of the goods and chattels of such officer, rendering to him the overplus (if any) on demand, after payment of the money remaining due and deducting the charges and expences of making such distress and sale; and if sufficient distress cannot be found, or if it shall appear to any such justice in manner aforesaid, that any such officer shall have refused or wilfully neglected to give such account or to deliver up all books, papers, writings, tools, matters and things in his custody or power relating to the execution of his office, such justice shall commit him to the house of correction or common gaol of the county where such offender shall be or reside, there to remain without bail or mainprize until he shall make and give a true and perfect account and verify the same in manner aforesaid, and shall produce and deliver up the vouchers relating thereto, and shall have paid the money (if any) remaining in his hands as aforesaid according to the direction of the trustees or commissioners, or shall have compounded with the said trustees or commissioners for such money and paid such composition according to their direction, which composition all trustees and commissioners are hereby empowered to make and receive, or until he shall deliver up such books, papers, and writings, tools, matters and things as aforesaid or have given satisfaction to the trustees or commissioners concerning the same; but no such officer who shall be committed on account of his not having sufficient goods and chattels as aforesaid shall

No. XV.
3 Geo. IV.
c. 126.

Victuallers not to hold Places of Profit.

Treasurer to give Security. Security may be taken from any other Officer.

Officers to account when required.

On Complaint to a Justice of Officers neglecting to render Account, or not producing Vouchers, or refusing to deliver up Books, such Justice may cause any Balance due to be levied on the Goods of the Defaulter.

If Distress be insufficient, or if Books, &c., be not delivered up, the Justice may commit the Offender.

Limiting Time of Commitment.

No. XV.
3 Geo. IV.
c. 126.

For auditing
Accounts of
Treasurers,
Clerks, and
Surveyors, at
the General
Annual Meet-
ing.

Treasurer &c.,
neglecting to
produce Ac-
counts, &c.,
how to be dealt
with.

Statement of
the Revenue
and Expendi-
ture to be
made out ac-
cording to the
Form in Sched-
ule annexed,
and being ap-
proved shall be
transmitted to
the Clerk of
the Peace.

Penalty 50*l*.

Clerk of the
Peace to re-
gister such
Statements, and
produce them
to the Quarter
Sessions.

Fee for Inspec-
tion and Copy.

Statements to
be printed and
sent to Trus-
tees.

Power to bor-
row Money.

be detained in prison by virtue of this Act for any longer time than six calendar months.

LXXVIII. And be it further enacted, That the trustees or commissioners of every turnpike road shall and they are hereby required at their general annual meeting in each year to examine audit and settle the accounts of the respective treasurers clerks and surveyors appointed by them, and to require such treasurers clerks and surveyors to produce their books, accounts, papers, and vouchers, and to examine into the revenues and debts, distinguishing bond from simple contract debts, of the several roads for which they shall act as treasurer clerk or surveyor; and when the accounts of the said several treasurers clerks and surveyors shall be settled and allowed by the trustees or commissioners present at such meeting the same shall be signed by the chairman of such meeting; and if any treasurer clerk or surveyor shall refuse or neglect to produce his accounts or any book paper or voucher required to be produced by him, such treasurer clerk or surveyor shall be dealt with according to the provisions herein-before contained with regard to officers refusing to account or deliver up books or papers or pay over money in their hands; and when and as soon as the said accounts of the said respective treasurers clerks and surveyors shall be audited allowed and signed, the clerk to the trustees or commissioners holding such meeting shall forthwith make out a statement of the debts revenues and expenditure received or incurred on account of the trust for which the meeting shall be held in the form contained in the schedule to this Act annexed; which said statement shall be submitted to the trustees or commissioners assembled at such meeting, and when approved by the majority of them shall be signed by the chairman of the said meeting; and the said statement being so approved and signed, the said clerk shall within thirty days thereafter transmit the same to the clerk of the peace of the county in which the road or the major part thereof to which the said statement relates shall lie; and if any clerk shall refuse or neglect to make out such statement as aforesaid or to transmit the same within the time herein-before mentioned, every clerk so offending shall for such offence forfeit and pay the sum of fifty pounds, to be recovered as herein-after directed.

LXXIX. And be it further enacted, That the clerk of the peace of every county to whom such statements shall be transmitted shall on receiving such statements cause the same to be produced to the justices assembled at the quarter sessions to be held next after the receipt thereof, and also to be registered and kept amongst the records of the quarter sessions of the county for which such clerk of the peace shall act; and the said statements so to be transmitted to the said respective clerks of the peace shall when registered be open to the inspection of all and every person and persons whatsoever, who may take extracts therefrom or copies thereof, paying to the clerk of the peace in whose custody the same shall be the sum of five shillings for each inspection and the sum of sixpence for every seventy-two words of each extract or copy taken.

LXXX. And be it further enacted, That the said trustees or commissioners shall immediately after such accounts and statements have been examined audited and signed cause a sufficient number of copies of such statements to be printed, and direct their clerk to transmit a copy thereof to each acting trustee or commissioner, having duly qualified himself to act as such trustee or commissioner of such road.

LXXXI. And be it further enacted, That it shall be lawful for the trustees or commissioners of any turnpike road to borrow and take up at interest on the credit of the tolls arising on such road such sum or sums of money as they shall from time to time respectively think proper, and to demise and mortgage the tolls on such road or any part or parts thereof, and the turnpikes and toll houses for collecting the same (the costs and charges of which mortgages shall be paid out of the tolls) as a security to any person or persons or their trustees who shall advance such sum or sums of money; which mortgages shall be in the words or to the effect following; (that is to say,)

‘BY virtue of an Act passed in the _____ year of
 ‘the reign of _____ intituled [*here set forth the*
 ‘*title of this Act*] We whose hands and seals are hereunto subscribed
 ‘and set, being _____ of the
 ‘trustees [or commissioners] for putting into execution an Act passed
 ‘in the _____ year of the reign of _____
 ‘intituled [*here set forth the title of the Act under which the trustees or*
 ‘*commissioners borrowing the money and granting the mortgage shall act*] in
 ‘consideration of the sum of _____ sterling
 ‘advanced and paid by A. B. of _____ to the
 ‘treasurer of the said trustees [or commissioners] do hereby grant and
 ‘assign unto the said A. B. and his executors administrators and assigns,
 ‘such proportion of the tolls arising and to arise on the said turnpike
 ‘road and the toll gates and toll houses erected or to be erected for
 ‘collecting the same, as the said sum of _____
 ‘doth or shall bear to the whole sum now or hereafter to become due
 ‘and owing on the security thereof: To have, hold, receive, and take
 ‘the said proportion of the said tolls, toll gates, toll houses, and premises
 ‘with the appurtenances unto the said A. B. and his executors ad-
 ‘ministrators and assigns for and during the residue of the term for
 ‘which the said tolls are granted by the said last-mentioned Act, unless
 ‘the said sum of _____ with interest after
 ‘the rate of _____ per centum per annum shall be sooner repaid and
 ‘satisfied. Given under our hands this _____ of _____.

No. XV.

3 Geo. IV.
c. 126.Form of Mort-
gage.

And copies of all such mortgages shall be entered in a book or books to be kept for that purpose by the clerk or treasurer to the said trustees or commissioners, for which entry such clerk shall be paid the sum of five shillings and no more out of the tolls payable on such road, and which said book or books shall and may at all seasonable times be perused and inspected without fee or reward; and it shall be lawful for all persons respectively to whom any mortgage shall be made as aforesaid, or who shall be from time to time entitled to the money thereby secured, to assign or transfer his her or their right title and interest in and to such mortgage and the principal money and interest thereby secured to any other person or persons whomsoever; which assignment or transfer may be made in the following words or words to the like effect, to be indorsed on such mortgage security or to be underwritten or thereunto annexed, and signed in the presence of and attested by one or more credible witness or witnesses; (that is to say,)

Mortgages may
be assigned.

‘I A. B. [or I C. D. assignee executor or administrator of A. B. as the
 ‘*case may happen*] do hereby assign and transfer this mortgage security
 ‘with all my right and title to the principal money thereby secured and
 ‘all interest now due and hereafter to grow due upon the same unto E. F.
 ‘his or her executors administrators and assigns. Dated this _____
 ‘day of _____ one thousand eight hundred _____
 ‘and _____

Form of Assign-
ment.

‘Witness G. H.

(Signed)

A. B. or C. D.’

Which transfer shall be produced and notified to the clerk or treasurer of the said trustees or commissioners within two calendar months next after the day of the date thereof, who shall enter the same in the said book or books, for which entry the said clerk or treasurer shall be paid the sum of five shillings and no more; and such transfer shall then entitle such assignee, his executors, administrators, and assigns to the full benefit of such mortgage security; and every such assignee may in like manner assign or transfer the same, and so *toties quoties*; and it shall not be in the power of any person or persons (except the person or persons to whom the same shall be last transferred, his her or their respective executors or administrators) to release discharge or make void the original mortgage security or the monies due thereon or any part thereof; and all persons to whom any such mortgage or transfer shall be made as aforesaid, shall in proportion to the sum or sums of money thereby secured be creditors on the tolls by such Act granted and on the said

No. XV.
3 Geo. IV.
c. 126.

**Enforcing the
Payment of
Money sub-
scribed.**

**Powers for
making and im-
proving the
Roads.**

**Lands may be
purchased for
improving the
Road.**

**Bodies Politic,
&c., and Inca-
pacitated Per-
sons empowered
to sell.**

toll gates and toll houses in equal degree one with another, or in such order as shall be agreed upon and stipulated by the said trustees or commissioners at the time of the advance of their respective shares.

LXXXII. And be it further enacted, That if any person or persons shall agree to advance any sum or sums of money to be employed in the making or repairing of any turnpike road or highway intended to be made turnpike, and shall subscribe his her or their name or names to any writing for that purpose, every such person shall be liable to pay every such sum or sums of money so subscribed according to the purport of such writing; and in default of payment thereof within twenty-one days after the same shall become payable according to the purport of such writing, and shall be demanded by the person to whom the same is made payable by such writing, or if no person be named therein for that purpose, by the treasurer of such turnpike or intended turnpike road, it shall and may be lawful for every such treasurer or other person to sue for and recover the same in any of his Majesty's Courts of Record by action of debt or on the case or by bill suit or information wherein no essoin protection or wager of law nor more than one imparlance shall be allowed.

LXXXIII. And be it further enacted, That it shall be lawful for the trustees or commissioners of every turnpike road, and they are hereby fully authorized and empowered from time to time, to make, divert, shorten, vary, alter, and improve the course or path of any of the several and respective roads under their care and management or of any part or parts thereof, and to divert, shorten, vary, alter, and improve the course or path of any of the said several and respective roads through or over any commons or waste grounds or uncultivated lands without making satisfaction for the same, and also through or over any private lands tenements or hereditaments tendering and making satisfaction to the owners thereof and persons interested therein, for the damage they shall sustain thereby; and it shall and may be lawful for the said trustees or commissioners and for their surveyor or surveyors and workmen, with or without carriages or cattle from time to time, to enter upon any such commons or waste grounds or uncultivated lands, private lands, tenements or hereditaments as aforesaid, through or over which the said road or the widenings and alterations thereof pass or are intended to pass, and to stake out and make the same in such manner as the said trustees or commissioners shall think necessary or proper, without being thereby subject or liable to be deemed a trespasser or trespassers or to any fine penalty or forfeiture for entering or continuing upon any part or parts of such lands tenements and hereditaments respectively for any of the purposes aforesaid.

LXXXIV. And be it further enacted, That it shall be lawful for the trustees or commissioners of any turnpike road to treat contract and agree with the owners of and persons interested in any lands, tenements, hereditaments, and premises with their appurtenances, which they shall deem necessary to purchase for the purpose of widening, diverting, altering and improving such road for the purchase thereof, and for the loss or damage such owners or persons may otherwise sustain; and it shall be lawful for all bodies politic corporate or collegiate, corporations aggregate, or sole tenants for life, or in tail, husbands, guardians, trustees, feoffees, in trust, committees, executors, administrators, and all other persons whomsoever, not only for or on behalf of themselves their heirs and successors, but also for and on behalf of the person or persons entitled in reversion remainder or expectancy after them, and for and on behalf of their cestuique trusts, whether feines covert, infants, or issue unborn, lunatics, idiots or other person or persons whomsoever, and to and for all feines covert who are or shall be seised of or interested in their own right, and to and for all and every person and persons whomsoever who are or shall be possessed of or interested in any such lands, tenements, hereditaments, or premises or who shall sustain any damage as aforesaid, to contract with the said trustees or commissioners for the sale thereof, or for the satisfaction to be made for the same, or for such damages as aforesaid; and

by conveyance lease and release or bargain and sale to sell and convey unto the said trustees or commissioners all or any such lands, tenements, hereditaments, or premises or any part thereof for the purposes aforesaid; and all contracts sales and conveyances which shall be so made shall be good valid and effectual to all intents and purposes without fine or recovery, and shall be a complete bar to all estates tail and other estates, rights, titles, trusts, and interests whatsoever, any law statute, usage, custom, or other matter, to the contrary notwithstanding; and all such bodies politic corporate or collegiate corporations aggregate or sole tenants for life or in tail, husbands, guardians, trustees, feoffees, committees, executors, administrators, and all other persons, shall be and are hereby indemnified for what they or any of them shall do by virtue or in pursuance of this Act.

LXXXV. And be it further enacted, That if any such bodies politic corporate or collegiate corporations aggregate or sole tenants for life or in tail, husbands, guardians, trustees, feoffees, committees, executors, administrators, or any other person or persons interested in any such lands, tenements, hereditaments, or premises or sustaining any damage as aforesaid, upon notice to him her or them given or left in writing at the dwelling-house or dwelling-houses, place or places of abode of such person or persons, or of the principal officer or officers of any such bodies politic corporate or collegiate corporations aggregate or sole tenants for life or in tail, or at the house of the tenant in possession of any such lands, tenements, hereditaments or premises, shall for the space of thirty days next after such notice given or left as aforesaid neglect or refuse to treat or shall not agree in the premises, or by reason of absence shall be prevented from treating, then and in every such case the said trustees or commissioners shall cause such damage value or recompence to be inquired into and ascertained by a jury of twelve indifferent men of the county riding or place wherein such lands, tenements, hereditaments, or premises do lie; and in order thereto the said trustees or commissioners are hereby empowered and required from time to time as occasion shall require to summon and call before such jury and examine upon oath all and every person and persons whomsoever who shall be thought necessary and proper to be examined concerning the premises (which oath the said trustees or commissioners or any or either of them are and is hereby empowered to administer); and such trustees or commissioners shall by ordering a view or otherwise use all lawful ways and means, as well for their own as for the said jury's information in the premises; and after the said jury shall have inquired of and assessed such damage and recompence, they the said trustees or commissioners shall thereupon order the sum or sums of money so assessed by the said jury to be paid to the said owners or other persons interested, according to the verdict or inquisition of such jury; and such verdict or inquisition and judgment order and determination thereon, shall be final binding and conclusive to all intents and purposes against all parties and persons whomsoever claiming or to claim any estate in possession reversion or otherwise their heirs and successors, as well absent as present, infants, femmes covert, idiots, lunatics, and persons under any other disability whatsoever bodies politic corporate or collegiate, corporations aggregate or sole tenants for life or in tail, as well as all and every person and persons whomsoever; and for summoning and returning such juries, the said trustees or commissioners are hereby empowered to issue their warrant or warrants in writing to the sheriff of the county wherein such lands, tenements, hereditaments, or premises do lie, commanding him to impanel summon and return an indifferent jury of twenty-four persons, qualified to serve upon juries to appear before such trustees or commissioners at such time and place as in such warrant or warrants shall be appointed; and such sheriff or his deputy or deputies is and are hereby required to impanel summon and return such number of persons accordingly; and out of the persons so impanelled summoned and returned or out of such of them as shall appear upon such summons, the said trustees or commissioners shall and are hereby empowered and required to swear or cause to be sworn twelve

No. XV.
3 Geo. IV.
c. 126.

Contracts binding.

When Persons interested neglect or refuse to treat, the Value may be ascertained by a Jury.

No. XV.
3 Geo. IV.
c. 126.

Fines may be imposed on Sheriffs, &c., making Default in the Premises.

Money assessed for Lands, &c., to be paid by the Trustees, and tendered to the Parties entitled thereto, or paid into the Bank, upon which the Premises shall vest in the Trustees.

After new Road is completed, the old Road may be sold.

Conveyances executed by the Trustees, and enrolled in the Office of the Clerk of the Peace to be

men, who shall be a jury for the purposes aforesaid; and in default of a sufficient number of jurymen, the said sheriff or his deputy or deputies shall return other honest and indifferent men of the standers-by or that can be speedily procured to attend that service to the number of twelve; and all persons concerned shall have their lawful challenges against the said jurymen when they come to be sworn, but shall not challenge the array; and the said trustees or commissioners acting in the premises shall have power from time to time to impose any reasonable fine or fines upon such sheriff, his deputy or deputies, bailiff or bailiffs, agent or agents, making default in the premises, and on any of the persons that shall be summoned and returned on such jury, and who without sufficient excuse shall not appear or appearing shall refuse to be sworn on the said jury, or being sworn shall refuse to give or shall not give their verdict or in any other manner wilfully neglect their duty therein, contrary to the true intent and meaning of this Act, and on any of the persons who being required to give evidence before the said jury, shall without sufficient excuse refuse or neglect to appear or appearing shall refuse to be sworn and examined or to give evidence, so that no one fine be more than ten pounds on any such sheriff deputy bailiff or agent, nor more than five pounds on any other person for one offence.

LXXXVI. And be it further enacted, That every sum of money or recompence to be agreed for or assessed as aforesaid shall be paid out of any monies in the hands of the said trustees or commissioners, or out of the tolls granted by the Act for making and repairing such turnpike road, or out of the monies to be borrowed on the credit thereof to the party or parties or person or persons respectively entitled thereto or to their agents or into the Bank of *England*, in manner by this Act directed (as the case may be); and upon such payment to such parties or persons or their agents or into the Bank of *England*, and after thirty days' notice thereof given to such parties or persons or to their agents, or left at their respective usual places of abode or with the tenant or tenants in possession of such lands, tenements, hereditaments, and premises, then such lands, tenements, hereditaments, and premises respectively shall be vested in such trustees or commissioners, and shall and may be taken and used for the purposes of such Act; and such lands and the site of such lands, tenements, hereditaments, and premises shall be laid into and made part of the road in such manner as the said trustees or commissioners shall direct, and shall be repaired and kept in repair by such trustees or commissioners by the same ways and means as any other part of the road under their management is or ought to be kept in repair; and all parties and persons whomsoever shall be divested of all right and title to such lands tenements and hereditaments; and after such new road shall be completed, the lands or grounds constituting any former roads or road, or so much and such part or parts thereof as in the judgment of the said trustees or commissioners may thereby become useless or unnecessary, or shall or may be stopped up and discontinued as public highways (unless leading over some moor, heath, common, uncultivated land, or waste ground, or to some church, mill, village, town, or place, lands or tenements, to which such new road or roads doth not or do not immediately lead, and which may therefore be deemed proper to be kept open either as a public or private way or ways, for the use of any inhabitant at large or any individual or individuals), and shall be vested in and shall and may be sold and conveyed by the said trustees or commissioners in the manner herein mentioned for the best price that can be gotten for the same, and the money arising by such sale shall be applied for the purposes of the Act for repairing and maintaining such turnpike road; and all conveyances being executed by the said trustees or commissioners, and enrolled in the office of the clerk of the peace for the county city or place wherein such road shall be situate, shall be good and effectual in the law to all intents and purposes whatsoever; or it shall be lawful for the said trustees or commissioners, instead of making such sale as aforesaid, to give up to the owners or proprietors of any adjoining lands tenements or hereditaments, whose building land or ground shall be had

or taken for the purposes of this Act, any part or parts of the present or old roads in lieu of and in exchange for the same, in such way and manner as such trustees, or commissioners, and owners, or proprietors shall agree upon and think fit.

LXXXVII. And be it further enacted, That in case any jury or juries to be summoned and sworn pursuant to the directions and authority of this Act, shall give in and deliver a verdict or assessment for more money as a recompence or satisfaction for the right interest or property of any person or persons in any such lands, tenements, hereditaments, or premises, or for any loss or damage to be by him her or them sustained, than what shall have been agreed to and offered by such trustees or commissioners before the summoning or returning the said jury or juries, as a recompence or satisfaction for any such right interest or property or for any loss or damage as aforesaid, then and in such case the costs and expences of summoning and maintaining the said jury and witnesses and all other expences attending the hearing and determining such difference, shall be borne and paid by the treasurer to the trustees or commissioners, out of any money which shall then be in his hands, or out of any monies to be received by virtue of the Act for repairing and maintaining such turnpike road, such costs and expences to be settled and ascertained by some justice of the peace for the county or place wherein the dispute shall have arisen not interested in the matter in question, who is hereby authorized and empowered to settle and determine the same, and to make an order on the treasurer of the trustees or commissioners liable thereto for the payment thereof; but if any such jury or juries so summoned and sworn as aforesaid shall give in and deliver a verdict or assessment for no more or for less money than shall have been agreed to and offered by the trustees or commissioners before the summoning and returning of the said jury or juries, as a recompence and satisfaction for any such right interest or property in any such lands, tenements, hereditaments, or premises, or losses, or damages as aforesaid, then the costs and expences of summoning and maintaining the said jury and witnesses and all other expences as aforesaid, shall be borne and paid by the person or persons with whom such trustees or commissioners shall have such controversy or dispute; which said costs and expences having been ascertained and settled by some justice of the peace for the county riding or place wherein the cause of dispute shall arise, not interested in the matter in question, (who is hereby required to examine and settle the same,) shall and may be deducted out of the money so assessed and adjudged, as so much money advanced to and for the use of such person or persons, and the payment or tender of the remainder of such monies shall be deemed and taken, to all intents and purposes, to be a payment or tender of the whole sum or sums so assessed and adjudged, or otherwise such costs and expences in case the same or any part thereof shall exceed such damages, and shall not be paid upon demand, after being so ascertained and settled as aforesaid may be recovered by the said trustees or commissioners by the ways and means herein-after provided for the recovery of penalties and forfeitures: Provided always, that in all cases where any person or persons shall by reason of absence have been prevented from treating, such costs and expences shall be borne and paid by the said trustees or commissioners in manner aforesaid.

LXXXVIII. And be it further enacted, That when any turnpike road shall be diverted or turned, and the new road shall be made and completed, such new road shall be in lieu of the old road, and shall be subject to all the provisions and regulations in any Act of Parliament contained or otherwise to which the old road was subject, and shall be deemed and taken to be a common highway, and shall be repaired and maintained as such; and the old road shall be stopped up, and the land and soil thereof shall be sold by the trustees or commissioners to some person or persons whose lands adjoin thereto, as herein-after mentioned with regard to pieces of ground not wanted; but if such old road shall lead to any lands house or place, which cannot in the opinion of the said trustees or commissioners be conveniently accommodated with a passage from such

No. XV.

3 Geo. IV.

c. 126.

How Expences
of Jury and
Witnesses are
to be borne.

When new
Road shall be
completed, old
Highway to be
stopped up, and
the Land sold.

No. XV:
3 Geo. IV.
c. 126.

new road, which they are hereby empowered to order and lay out if they find it necessary, then and in such case the old road shall be sold, but subject to the right of way and passage to such lands house or place respectively, according to the ancient usage in that respect; and the money arising from such sale in either of the said cases shall be applied towards the purchase of the land where such new road shall be made, or in the same manner as the tolls arising on such road as the trustees or commissioners thereof shall think fit; and upon the completion of any contract whereby any part of the old road shall be given in payment for the value of the ground taken for the new road, or upon payment of the price of any part of the old road, the soil of such old road shall become vested in the purchaser thereof and his heirs; but all mines minerals and fossils lying under the same shall continue the property of the person or persons who would from time to time have been entitled to the same if such old road had continued.

When any Parts of Land not wanted for the Purposes of Roads are to be sold, the First Offer to be made to the original or adjoining Owners.

What shall be Evidence of such Offer and Refusal.

In case of Dispute as to Price, the Value to be ascertained by a Jury.

Application of Compensation Money exceeding 200l.

LXXXIX. And be it further enacted, That where the trustees or commissioners of any turnpike road shall have purchased or shall be possessed of any piece or pieces of ground not wanted for the purposes of such road, it shall and may be lawful for such trustees or commissioners to sell and dispose of the same: Provided always, that the said trustees or commissioners before they shall sell and dispose of any such piece or pieces of ground not wanted for the purposes of such turnpike road as aforesaid to any other person or persons, shall first offer the same to the person or persons of whom the same shall have been purchased or to the person or persons whose lands shall adjoin thereto, and if such person or persons respectively shall then and thereupon refuse or shall not agree (except with respect to or on account of the price thereof) to purchase the same respectively on an affidavit being made and sworn before a master or master extraordinary in the High Court of Chancery or before one of his Majesty's justices of the peace for the county liberty or place where such ground is situate (who are hereby respectively empowered to take such affidavit) by some person or persons no way interested in the said piece or pieces of ground, stating that such offer was made by or on the behalf of such trustees or commissioners, and that such offer was then and thereupon refused or was not agreed to by the person or persons to whom the same was made, such affidavit shall in all courts whatsoever be sufficient evidence and proof that such offer was made and was refused or not agreed to by the person or persons to whom such offer was made (as the case may be); and in case such person or persons shall be desirous of purchasing such piece or pieces of ground and he she or they and the said trustees or commissioners shall differ or not agree with respect to the price thereof, then the price or prices thereof shall be ascertained by a jury in manner in this Act directed with respect to disputed value of premises to be taken and used in pursuance of this Act, and the expence of hearing and determining such difference shall be borne and paid in manner herein-before directed with respect to such purchases made by the said trustees, *mutatis mutandis*; and the money to arise by the sale or sales of such pieces or parcels of ground shall be applied by the trustees or commissioners to the purposes of the Act for repairing and maintaining such turnpike road, but the purchaser or purchasers thereof shall not be answerable or accountable for any misapplication or non-application of such money; and the conveyances of such piece or pieces of ground shall be made to the purchaser or respective purchasers thereof and in such manner and form as is herein-before directed with respect to the conveyances to be made of the land constituting any part of the roads herein-before directed to be sold.

XC. And be it further enacted, That if any money shall be agreed or awarded to be paid for any lands tenements or hereditaments purchased taken or used by virtue of the powers of this Act, by any trustees or commissioners of any turnpike road, which shall belong to any corporation, feme covert, infant, lunatic, tenant for life, or in fee, tail, general, or special or person or persons under any disability or incapacity, such money shall in case the same shall amount to or exceed the sum of two hundred

pounds with all convenient speed be paid into the Bank of *England* in the name and with the privy of the accountant-general of the High Court of Chancery to be placed to his account, *ex parte*, the trustees or commissioners of the road for which such lands tenements or hereditaments shall be taken, to the intent that such money shall be applied under the direction and with the approbation of the said court, to be signified by an order made upon a petition to be preferred in a summary way by the person or persons who would have been entitled to the rents and profits of the said lands tenements or hereditaments in the purchase of the land tax or towards the discharge of any debt or debts or such other incumbrances or part thereof as the said court shall authorize to be paid, affecting the same lands tenements or hereditaments or affecting other lands tenements or hereditaments standing settled therewith to the same or to the like uses, trusts, intents, or purposes; or where such money shall not be so applied, then the same shall be laid out and invested under the like direction and approbation of the said court in the purchase of other lands tenements or hereditaments, which shall be conveyed and settled to for and upon such and the like uses, trusts, intents, and purposes, and in the same manner as the lands tenements or hereditaments which shall be so purchased taken or used as aforesaid, stood settled or limited, or such of them as at the time of making such conveyance or settlement shall be existing undetermined and capable of taking effect; and in the meantime and until such purchase shall be made the said money shall by order of the said Court of Chancery, upon application thereto, be invested by the said accountant-general in his name in the purchase of three pounds *per centum* consolidated, or three pounds *per centum* reduced bank annuities; and in the meantime and until the said bank annuities shall be ordered by the said court to be sold for the purposes aforesaid, the dividends and annual produce of the said consolidated or reduced bank annuities shall from time to time be paid by the order of the said court to the person or persons who would for the time being have been entitled to the rents and profits of the lands tenements or hereditaments so hereby directed to be purchased, in case such settlement or purchase were made.

XCi. Provided always, and be it further enacted, That if any money so agreed or awarded to be paid for any lands tenements or hereditaments purchased taken or used for the purposes aforesaid, belonging to any corporation or to any person or persons under disability or incapacity as aforesaid, shall be less than the sum of two hundred pounds, and shall amount to or exceed the sum of twenty pounds, then and in all such cases the same shall at the option of the person or persons for the time being entitled to the rents and profits of the lands tenements or hereditament so purchased taken or used, or of his her or their guardian or guardians committee or committees in case of infancy or lunacy to be signified in writing under their respective hands be paid into the said bank in the name and with the privy of the said accountant-general of the High Court of Chancery, and be placed to his account as aforesaid, in order to be applied in manner herein-after directed; or otherwise the same shall be paid at the like option to two trustees to be nominated by the person or persons making such option and approved by three or more of the trustees or commissioners taking such lands tenements or hereditaments (such nomination and approbation to be signified in writing under the hands of the nominating and approving parties) in order that such principal money and the dividends and interest arising thereon may be applied in manner herein-before directed so far as the case be applicable without obtaining or being required to obtain the direction or approbation of the Court of Chancery.

XCII. Provided also, and be it further enacted, That where such money so agreed or awarded to be paid as last before mentioned shall be less than twenty pounds, then and in all such cases the same shall be applied to the use of the person or persons who would for the time being have been entitled to the rents and profits of the lands tenements or hereditaments so purchased taken or used in such manner as the said trustees or commissioners or any three or more of them shall think fit; or in case

No. XV.
3 Geo. IV.
c. 126.

Application of
Compensation
Money when
less than 200l.
and not less
than 20l.

Application of
Compensation
Money when
less than 20l.

No. XV.
3 Geo. IV.
c. 126.

If Compensation Money be refused, or the Titles to the Land cannot be made out satisfactorily, or if Persons cannot be found, then Money to be paid into the Bank, subject to the Order of the Court of Chancery on Motion or Petition.

Persons in possession to be deemed lawfully entitled to the Premises, until the contrary shall be shown to the Court of Chancery.

Court of Chancery to direct Payment of Expenses in Cases where Purchases of other Lands are made.

of lunacy or infancy, then to his her or their guardian or guardians committee or committees to and for the use and benefit of such person or persons so entitled respectively.

XCIII. And be it further enacted, That in case the person or persons to whom any sum or sums of money shall be awarded for the purchase of any lands tenements or hereditaments to be purchased by virtue of this Act, shall refuse to accept the same or shall not be able to make a good title to the premises to the satisfaction of the trustees or commissioners or any three or more of them, or in case such person or persons to whom such sum or sums of money shall be so awarded as aforesaid cannot be found, or if the person or persons entitled to such lands tenements or hereditaments be not known or discovered, then and in every such case it shall and may be lawful to and for the trustees or commissioners or any three or more of them to order the said sum or sums of money so awarded as aforesaid to be paid into the Bank of *England* in the name and with the privity of the said accountant-general of the said Court of Chancery, to be placed to his account, to the credit of the parties interested in the said lands tenements or hereditaments (describing them) subject to the order controul and disposition of the said Court of Chancery, which said Court of Chancery, on the application of any person or persons making claim to such sum or sums of money or any part thereof by motion or petition, shall be and is hereby empowered in a summary way of proceeding or otherwise as to the said court shall seem meet to order the same to be laid out and invested in the public funds, and to order distribution thereof or payment of the dividends thereof, according to the respective estate or estates title or interest of the person or persons making claim thereunto, and to make such other order in the premises as to the said court shall seem just and reasonable; and the cashier or cashiers of the Bank of *England* who shall receive such sum or sums of money is and are hereby required to give a receipt or receipts for such sum or sums of money, mentioning and specifying for what and for whose use the same is or are received to such person or persons as shall pay any sum or sums of money into the Bank of *England* as aforesaid.

XCIV. Provided always, and be it further enacted, That where any question shall arise touching the title of any person to any money to be paid into the Bank of *England*, in the name and with the privity of the said accountant-general of the said Court of Chancery, in pursuance of this Act, for the purchase of any lands tenements or hereditaments to be purchased in pursuance of this Act, or to any bank annuities to be purchased with any such money, or to the dividends or interests of any such bank annuities, the person or persons who shall have been in possession of such lands tenements or hereditaments at the time of such purchase, and all persons claiming under such person or persons or under the possession of such person or persons, shall be deemed and taken to have been lawfully entitled to such lands tenements or hereditaments, according to such possession, until the contrary shall be shown to the satisfaction of the said Court of Chancery; and the dividends or interest of the bank annuities to be purchased with such money and also the capital of such bank annuities, shall be applied and disposed of accordingly, unless it shall be made to appear to the said court that such possession was a wrongful possession, and that some other person or persons was or were lawfully entitled to such lands tenements or hereditaments, or to some estate or interest therein.

XCv. Provided always, and be it further enacted, That where by reason of any disability or incapacity of the person or persons or corporation entitled to any lands tenements or hereditaments to be purchased under the authority of this Act, the purchase money for the same shall be required to be paid into the Court of Chancery and to be applied in the purchase on other lands tenements or hereditaments to be settled to the like uses in pursuance of this Act, it shall be lawful for the said Court of Chancery to order the expences of all purchases from time to time to be made in pursuance of this Act, or so much of the said expences as the said court shall deem reasonable, together with the necessary costs and

charges of obtaining such order, to be paid by the trustees or commissioners or any three or more of them who shall from time to time pay such sums of money for such purposes as the said court shall direct.

XCVI. And be it further enacted, That it shall not be lawful for the trustees or commissioners of any turnpike road, in altering or diverting the course of any part of the turnpike road under their care and management, to deviate over any inclosed lands or grounds more than one hundred yards from the line or course of such turnpike road, without the consent in writing of the owner or proprietor of such lands or grounds, or to take in or make use of any garden, yard, paddock, park, planted walk, or avenue to a house, or any inclosed ground planted as an ornament or shelter to a house, or planted and set apart as a nursery for trees, or any part thereof respectively, without the like consent of the owner or proprietor thereof first had and obtained: Provided always, that nothing herein contained shall extend or be deemed taken or construed to extend to revoke, limit, abridge, alter, or vary any powers or authorities contained in any Act or Acts of Parliament existing and in force at the passing of this Act for making altering or diverting any turnpike road or roads or the course thereof, to be made altered or diverted and maintained under the authority of such Acts, but the same powers and authorities shall and may be used exercised and carried into effect by the trustees or commissioners appointed by such Acts fully and effectually, any thing herein contained to the contrary notwithstanding.

XCVII. And be it further enacted, That it shall be lawful for the surveyor or surveyors to the trustees or commissioners of every turnpike road, and for all such persons as he or they shall appoint, to search for, dig, gather, take, and carry away any materials for making or repairing any turnpike road out of any common river or brook (not being within fifty yards of any bridge, dam, weir, or jetty) or out of or from any waste or common in any parish hamlet or place in which any part of such road may lie, or in any adjoining parish hamlet or place, and to haul and carry away any such materials, when got over any common or waste lands, without paying any thing for such materials, and without being deemed a trespasser or trespassers; the said surveyor or surveyors or other person or persons filling up the pits or quarries levelling the grounds or sloping down the banks wherefrom such materials shall be taken, or railing or fencing off such pits or quarries, so that the same shall not be dangerous to any persons or cattle, and paying or tendering for the damage done by going through and over any inclosed lands or grounds for or with such materials, and such damages to be ascertained as herein-after mentioned; and also that it shall be lawful for the said surveyor or surveyors and such person or persons as he or they shall appoint, to search for, dig, get, gather, take, and carry away any such materials in or out of the land of any person or persons where the same may be had or found, in any parish hamlet or place in which any part of such road shall lie or be situate, or in any adjoining parish hamlet or place (not being a garden, yard, park, paddock, planted walk, or avenue, to any house or any piece of ground planted and set apart as a nursery for trees) making or tendering such satisfaction for such materials and for the damage done to the owners or occupiers of the lands where and from whence the same shall be dug gathered and carried away or over which the same shall be carried as the said trustees or commissioners shall judge reasonable; and also to land on and carry through or over any inclosed lands or grounds (not being a garden, yard, park, paddock, planted walk, or avenue to a house, or any piece of ground planted and set apart as a nursery for trees) or on through or over any open land or common any stone or other materials for making or repairing any such road, or for building or repairing any present or future toll house or toll houses on or by the sides thereof, from any river stream or canal in any parish hamlet or place in which any such road lies, or in any adjoining parish hamlet or place paying or tendering for the damage done in landing on or going through or over any inclosed lands or

No. XV.

3 Geo. IV.

c. 126.

Trustees not to deviate more than 100 Yards from present Line of Road, nor make use of any Garden, &c., without consent of the Owner.

Power to get Materials from any River or Brook, or from any Common or Waste Lands, without Expence, filling up the Pits, &c.;

or from the Lands of any Person, not being garden ground, &c., on tendering satisfaction for Damages;

and Materials may be carried through any inclosed or open Lands, on tendering Damages.

No. XV.
3 Geo. IV.
c. 126.

Any Difference
as to Damages
may be settled
by Two Jus-
tices.

Notice to be
given before
Materials are
taken from pri-
vate Lands, and
Two Justices
shall decide
therein.

If Pits or Holes
are made in
getting Mate-
rials, Surveyor
shall cause them
to be filled up
or fenced off:

Penalty for not
filling up or
fencing off, 20s.
Penalty for not
fencing off, &c.,
in Six Days
after receiving
Notice, not
more than 10l.
nor less than
40s.

grounds for or with such materials, such sum or sums of money as the said trustees shall judge reasonable; and in case of any difference between such trustees or commissioners surveyors or other persons appointed or employed as aforesaid, and the owners and occupiers of such lands or any of them concerning such payments and damages as aforesaid, any two or more justices of the peace for the county riding or place wherein the place from whence such materials shall have been taken shall be situate, on ten days' notice thereof being given in writing by either party to the other, shall hear settle and determine the matter of such payments and damages and the costs attending the hearing and determining the same.

XCVIII. Provided always, and be it further enacted, That it shall not be lawful for any surveyor or any other person or persons acting under the authority of this Act, to dig, gather, get, take, or carry away any materials for making or repairing any turnpike road or for other such purpose or purposes as aforesaid, out of or from any inclosed land or ground, until notice in writing signed by the surveyor shall have been given to the owner or owners of the premises from which such materials are intended to be taken, or his or her known agent, or to the occupiers of the premises from which such materials are intended to be taken, or left at the house or last or usual place of abode of such owner or occupier, to appear before any two or more justices of the peace acting in and for the county liberty or place where the lands from whence such materials are intended to be taken shall lie, to show cause why such materials shall not be had therefrom; and in case such owner agent or occupier shall attend pursuant to such notice, but shall not show sufficient cause to the contrary, such justices shall, if they think proper, authorize such surveyor or other person to dig, get, gather, take, and carry away such materials at such time or times as to such justices shall seem proper; and if such owner agent or occupier shall neglect or refuse to appear by himself or herself, or his or her agent, the said justices shall and may (upon proof on oath of the service of such notice, and which oath they are hereby empowered to administer) make such order therein as they shall think fit, as fully and effectually to all intents and purposes as if such owner or occupier or his or her agent had attended.

XCIX. And be it further enacted, That if any surveyor of any turnpike road or any person employed by him shall by reason of the searching for digging or getting any gravel, sand, stones, chalk, clay, or other materials for repairing any highways, make or cause to be made any pit or hole in any common or other lands or grounds rivers or brooks as aforesaid, wherein such materials shall be found, the said surveyor shall forthwith cause the same to be sufficiently fenced off and such fence supported and repaired during such time as the said pit or hole shall continue open, and shall within three days after such pit or hole shall be opened or made where no gravel stones or materials shall be found cause the same forthwith to be filled up levelled and covered with the turf or clod which was dug out of the same; and where any such materials shall be found within fourteen days after having dug up sufficient materials in such pit or hole, if the same is not likely to be further useful, cause the same to be filled up sloped down or fenced off, and so continued; and if the same is likely to be further useful, the said surveyor shall secure the same by posts and rails or other fences to prevent accidents to persons or cattle; and in case such surveyor shall neglect to fill up slope down or fence off such pit or hole in manner and within the time aforesaid, he or they shall forfeit the sum of twenty shillings for every such default; and in case such surveyor shall neglect to fence off such pit or hole or to slope down the same as herein-before directed for the space of six days after he or they shall have received notice for either of those purposes from any justice of the peace or from the owner or occupier of such several ground river or brook, or any person having right of common within such common or waste lands as aforesaid, and such neglect and notice shall be proved upon oath before one or more of the said justices of the peace, such surveyor shall forfeit and pay any

sum not exceeding ten pounds, nor less than forty shillings for every such neglect, to be determined and adjudged by such justice or justices, and to be laid out and applied in the fencing off filling up or sloping down such pit or hole in such manner as the said justice or justices shall direct and appoint; which forfeiture, in case the same be not forthwith paid, shall be levied as other forfeitures are herein-after directed to be levied.

C. Provided always, and be it further enacted, That it shall and may be lawful for the said trustees or commissioners to contract and agree with any person or persons whomsoever for the purchase or demise from him her or them of and to hold any land or ground for the purpose of digging stones gravel and materials therefrom for the repair or use of the said road, and at any time afterwards to sell the land or ground so purchased by public auction or tender; provided also that the entering into any such contract or agreement as last aforesaid shall not be compulsory against any person or persons unwilling to enter into the same.

CI. And be it further enacted, That if any person or persons shall take away any materials which shall have been gotten dug or gathered for the repair or use of any turnpike road, or any materials out of any quarry which shall have been made dug or opened for the purpose of getting materials for any turnpike road, before the surveyor of such road and the workmen employed for getting such materials shall have discontinued working therein for the space of six weeks (except the owner or occupier of any private grounds and persons authorized by such owner or occupier to get materials in such quarry for his own private use and not for sale) every person so offending shall for every such offence forfeit and pay any sum not exceeding five pounds.

CII. And be it further enacted, That the trustees or commissioners of every turnpike road are hereby empowered to purchase or rent any piece or pieces of land or ground not exceeding in any one place six yards square on the sides of such road, as repositories for stone gravel and other materials for making or repairing the same; and in case any difference shall arise between such trustees or commissioners and the owner of such land or ground with respect to the value thereof, or the necessity or propriety of taking such land or ground, the same shall be settled and determined by any two of his Majesty's justices of the peace acting in and for the county where the said land or ground shall be situated, in manner herein-before directed with respect to getting materials for the repair of any turnpike road.

CIII. And be it further enacted, That it shall and may be lawful for the company of proprietors or the trustee or trustees for the proprietors of any canal or of any railway or tramroad on which any flint, gravel, stone, or other materials for the repair of any turnpike road shall or may be conveyed, and they are hereby authorized and empowered to lessen and reduce the tolls and rates imposed by any Act of Parliament by which any such company shall be appointed, or any other Act whatsoever, on the carriage of such flint, gravel, stone, or other materials carried on the said canal or railway, and to appoint such lower tolls and rates to be taken for the carriage and conveyance of the same as the said company or trustees shall think proper; and all such reduced tolls shall and may be collected taken and recovered by the same persons and means and by and under the same powers, provisions, penalties, and forfeitures as the original tolls might have been taken in case the same should not have been reduced; any Act or Acts of Parliament bye-law or ordinance or trust deed to the contrary notwithstanding.

CIV. And be it further enacted, That all persons who by law are or shall be liable to do statute work, or are or shall be chargeable towards the repairing and amending any turnpike road, shall be and remain liable thereto in like manner in every respect as they now are or have heretofore been; and it shall be lawful for any two or more justices of the peace in and for the county city or place in which any such turnpike road shall lie or be situate, and they are hereby required and empowered upon application made to them by any three or more of the

No. XV.
3 Geo. IV.
c. 126.

Power to contract for Lands to get Materials.

Penalty on taking away Materials before Surveyor has discontinued digging for them, 54.

Repositories for Materials to be provided.

Two Justices shall settle any Difference that may arise as to Value.

Canal Companies may lower their Tolls on Materials for repairing Turnpike Roads.

Statute Labour to remain as heretofore.

Two Justices to adjudge the Proportion of Statute Work to be done yearly, on Application of Trustees

No. XV.
3 Geo. IV.
c. 126.

List of the
Names of Per-
sons liable to
Statute Duty
to be produced
and laid before
Justices.

Justices shall
appoint so many
Persons to do
Statute Work
as they think
reasonable, and
appoint the
Composition to
be paid by
others.

Penalty on Per-
sons neglecting
to do Statute
Work.

Idle Persons to
be dismissed,
and be subject
to a fine.

trustees or commissioners or by their clerk or surveyor of such turnpike road, yearly to adjudge and determine what part or proportion of the statute work shall every year be done upon such road by the inhabitants of the respective parishes hamlets and places in or through which the said road doth or shall lie lead or pass, and also what proportion of the money received by the surveyor or surveyors of the highways of every such parish hamlet or place in lieu of or as a composition for such statute work as aforesaid, shall be by him her or them paid to the said trustees or commissioners or their treasurer or treasurers; and in order thereunto the surveyor or surveyors of the highways for every such parish hamlet or place shall on an order in writing made by the said justices on an application to them by the trustees or commissioners of the turnpike road, or any three or more of them, or by their clerk or surveyor, and respectively delivered to such surveyor or surveyors of the highways, or left at his or their last or usual place of abode, bring and deliver within ten days afterwards to the said turnpike surveyor, or to his place of abode, true and perfect lists in writing of the names of the several persons who within such parish hamlet or place are by law subject and liable to do statute work for that year, or to the payment of any money in lieu of or as a composition for such statute work, distinguishing the nature of the work to be done, whether with teams or draughts or otherwise, and also the amount of the respective sums to be paid; which lists of names shall be made in such manner and under such regulations and restrictions as are or may be directed by any law or statute in force or effect for the repairs of the public highways, and may be made in the form specified in the schedule to this Act; and the said turnpike surveyor having received such lists shall within five days afterwards give a notice to the surveyor or surveyors of the highways of the time when such lists will be laid before the said justices, in order to apportion the said statute duty; and at the time appointed in and by such notice the said lists shall be laid before the said justices by the said turnpike surveyor in the presence of the said surveyor of the highways (if he shall attend); and out of such lists the said justices shall and may allot appoint and order such and so many of the persons who shall appear to be subject and liable to do statute work in every year upon such road as the said justices shall think reasonable; and the same shall be done on such days and at such time (not being haytime or harvest) and on such parts of the said road as the said trustees or commissioners or their surveyor or surveyors shall from time to time order direct or appoint; and the said justices shall and may order and direct the persons who by such lists shall be subject and liable to the payment of any money in lieu of or as a composition for the statute work as aforesaid, to pay such proportion thereof as the said justices shall think proper to the surveyor or surveyors of such parishes hamlets and places respectively, to be by him or them paid over to the said trustees or commissioners, or their treasurer or other person duly authorized to receive the same, at such time or times as the said justices shall direct; and in default of payment thereof, the same shall and may be recovered by distress and sale of the goods and chattels of the respective persons liable to the payment thereof in like manner as any penalty is by this Act authorized or directed to be recovered; and each and every person who shall neglect or refuse to do such statute work as aforesaid, after notice in writing given to or left for him her or them at his her or their last or usual place or places of abode for that purpose, by any surveyor to the said trustees or commissioners, shall for every day of his her or their default or the default of any labourer or labourers team or teams, draught or draughts, horse or horses, beast or beasts to be provided by him her or them, be subject and liable to such fines penalties and forfeitures as such person or persons may be subject or liable to by any law or statute now in force or effect for repair of the public highways; and if any person who shall come to work as a labourer or shall be sent with any team or draught to work on any part of such road shall be found idle or negligent by any surveyor to the said trustees or commissioners, such surveyor is hereby empowered to remove and

dismiss the person who shall be so found idle or negligent as aforesaid, and in that case every such person shall be subject and liable to the respective forfeitures and payments as aforesaid as if he had neglected or refused to come or such team or draught had not been sent to work on any part of such road; all which forfeitures shall be paid to the treasurer of the said trustees or commissioners, and applied towards amending the said road; and in case the surveyor or surveyors of the highways for any of the said parishes hamlets or places shall refuse or wilfully neglect to give in any such lists as aforesaid, or shall knowingly or wilfully give in false and imperfect lists, or shall refuse or neglect to collect or pay over such composition money or any part thereof in manner aforesaid, every such surveyor so offending shall for every such offence forfeit and pay any sum not exceeding ten pounds.

CV. And be it further enacted, That it shall be lawful for the trustees or commissioners of every turnpike road to compound and agree with any person or persons bodies politic or corporate for the repairs or statute work to be by him her or them done on any such turnpike road, and also with the surveyor or surveyors of the highways for any of the parishes hamlets or places in which the said road doth or shall lie and be situate for a certain sum of money by the year or otherwise as the said trustees or commissioners shall think reasonable, in lieu of the whole or any part of the statute work or other work to be by all or any of the said inhabitants and occupiers done on the said road, which composition money shall always be paid by the surveyor or surveyors of the highways or other officer of the parish hamlet or place or by the person or persons so compounding to the treasurer of the trustees or commissioners in advance on or before the twenty-ninth day of *September* in each and every year, or otherwise such person or persons, bodies politic or corporate or inhabitants and occupiers within such parish hamlet or place shall not be permitted to compound for that year; and all such composition money shall be applied for the purposes of such turnpike road; and that every such surveyor of the highways who shall pay any such composition money shall be reimbursed the same in like manner as surveyors of the highways are by the laws in being to be reimbursed the money by them laid out and expended in buying materials for the repairing of any other highway or highways.

CVI. And be it further enacted, That it shall and may be lawful for the trustees or commissioners of any turnpike roads to contract and agree with any person or persons liable to the repair of any part of the road under the care and management of such trustees or commissioners, or of any bridges thereon by tenure or otherwise for the repair thereof, for such term as they shall think proper, not exceeding three years, and to contribute towards the repair of such road or bridges such sum or sums of money as they shall think proper out of the tolls arising on such turnpike road.

CVII. And whereas many bridges on turnpike roads are by prescription at present liable to be repaired by certain parishes, and not by the county or counties in which they are situated, and which bridges from change of times and circumstances are become no longer sufficiently convenient for the use of the public without being enlarged or otherwise improved; be it therefore further enacted, That it shall and may be lawful for any such county or counties parish or parishes respectively to enter into a composition or agreement with each other, and by the authority of those persons who shall be legally competent to make rates for such county and parish respectively, whereby the improvement and future repair of any such bridge shall be undertaken and lie upon the county or counties in which such bridge is locally situated; and that all rates made for carrying into effect any such composition, agreement, repairs, or improvement shall be made and assessed in the same manner as other the rates of such county or parish respectively, and shall be good and valid to all intents and purposes in the law whatsoever.

CVIII. And be it further enacted, That it shall and may be lawful for

No. XV.
3 Geo. IV.
c. 126.

Penalty on Surveyors neglecting to give in Lists, not exceeding 10l.

Statute Work may be compounded for.

Trustees may contract with Persons liable to the Repairs of Roads by Tenure.

Compositions may be entered into by Counties for repairing Bridges repaired by Parishes.

Compositions may be entered into by Trustees and Parishes for Repair of Roads.

No. XV.
3 Geo. IV.
c. 126.

Where the
Repairs and
Revenues of a
Turnpike Road
shall be such as
that Statute
Labour will not
be required for
such Road,
Justices may
dispense with it.

Where Parish
indicted for
Non-repair of
a Turnpike
Road, the Court
to apportion the
Fine between
the Parish and
the Trustees or
Commissioners.

Power to make
Causeways.

Where Turn-
Road is

the trustees or commissioners of any turnpike road and for such parish or parishes in like manner to enter into a composition or agreement with each other, and by the authority of the persons at present legally competent to make rates for such parish or parishes, whereby in consideration of such sum or sums of money as shall be agreed upon being yearly paid to the treasurer of the trustees or commissioners entering into such composition or agreement out of the rates to be raised for the repair of the bridge or bridges the subject thereof, the repairs of any such bridge shall during the continuance of any Act or Acts of Parliament under which such trustees or commissioners shall be appointed or act be undertaken and carried on by the said trustees or commissioners; and that all rates and assessments raised and levied for carrying such composition or agreement into effect shall in like manner be good and valid to all intents and purposes whatsoever.

CIX. And whereas there are or may be turnpike roads in such a state and condition with regard to their repairs and the revenues arising upon them, that the statute duty required to be performed upon the same may be in the whole or in part dispensed with, and employed more advantageously for the benefit of the other public highways within the parish township or place liable to the performance of such duty; be it therefore enacted, That it shall and may be lawful for the justices of the peace at any special sessions upon application to them made by the surveyor of the highways or by any two inhabitants of any parish township or place, to summon before them the clerk and surveyor of any turnpike road within such parish township or place alleged to be in the situation before described, and then and there to produce before them a state of the revenues and debts of such turnpike road, and for such justices to inquire into the state and condition of the repairs thereof, and also of the repairs of such other highways; and if it shall appear to the said justices upon full and clear evidence that the whole or any part of such statute duty may be conveniently dispensed with from such turnpike road without endangering the securities for the monies advanced upon the credit of the tolls thereof, and that such statute duty is wanted for the repairs of the other highways within such parish township or place, then and in that case it shall and may be lawful for the said justices to order the whole or part of such statute duty to be performed upon the highways not being turnpike within such parish township or place under the direction of the surveyor thereof, during such time as to them shall seem reasonable, and the same shall be performed accordingly.

CX. And be it further enacted, That when the inhabitants of any parish township or place shall be indicted or presented for not repairing any highway being turnpike road, and the court before whom such indictment or presentment shall be preferred shall impose a fine for the repair of such road, such fine shall be apportioned, together with the costs and charges attending the same between the inhabitants of such parish township or place and the trustees or commissioners of such turnpike road, in such manner as to the said court upon consideration of the circumstances of the case shall seem just; and it shall and may be lawful for such court to order the treasurer of such turnpike road to pay the sum so proportioned for such turnpike road out of the money then in his hands or next to be received by him, in case it shall appear to such court from the circumstances of such turnpike debts and revenues, that the same may be paid without endangering the securities of the creditors who have advanced their money upon the credit of the tolls to be raised thereupon, which order shall be binding upon such treasurer, and he is hereby authorized and required to obey the same.

CXI. And be it further enacted, That it shall be lawful for the trustees or commissioners to make and keep in repair, or cause to be made and kept in repair, any causeway or causeways for the use of foot passengers in upon or on the sides of the turnpike road in such manner as they shall think proper; and also to make or cause to be made a road through the grounds adjoining to any ruinous or narrow part of any

Roads may be made through adjoining Grounds.

turnpike road, (not being the site or ground whereon any house or houses stand, nor being a yard, garden, park, paddock, planted walk, or avenue to any house, or any inclosed ground planted and set apart as a nursery for trees,) to be made use of by all passengers cattle and carriages as a public highway, whilst the old road is repairing or widening, and till such time as it shall be convenient for passengers and carriages to pass along the same, making such recompence to the owners and occupiers of such private grounds respectively for the damages they shall or may thereby sustain, as shall be adjudged reasonable by the trustees or commissioners of the road under repair or alteration; and in case of any difference concerning such damages between such owners or occupiers and such trustees or commissioners, that then it shall and may be lawful for any two or more justices of the peace acting in and for the county wherein such grounds shall be situate, on fourteen days' notice in writing being given by either party to the other, to settle adjudge and finally determine what recompence shall be made to such owners and occupiers, for the damages they shall have sustained as aforesaid.

CXII. Provided always and be it further enacted, That nothing herein contained as to the making or maintaining any causeway or footpath, or any other matter or provision in this Act, shall extend or be deemed or construed to extend to authorize or empower any trustees or commissioners of any turnpike road, to lay down, continue, repair, or maintain any pavement or any paved or pitched causeway or footpath, in or upon or at the side of any turnpike road within any town village or hamlet where such turnpike road shall pass through the same, unless provision shall have been or shall be specially made for that purpose in the Act or Acts of Parliament under which such turnpike road shall be made maintained or repaired; but in default of such provision all and every such pavement paved or pitched causeway or footpath, within such town village or hamlet shall be made repaired and maintained, by and at the costs of the inhabitants of such town village or hamlet, or by such other persons as shall be in anywise liable to make maintain and repair the same.

CXIII. And be it further enacted, That ditches drains or watercourses of a sufficient depth and breadth, for the keeping all turnpike roads dry and conveying the water from the same, shall be made, scoured, cleansed, and kept open, and sufficient trunks, tunnels, plats, or bridges, shall be made and laid where any carriage-ways or footways lead out of the said turnpike roads into the lands or grounds adjoining thereto, by the occupier or occupiers of such lands or grounds; and every person or persons who shall occupy any lands or grounds adjoining to or lying near such turnpike road through which the water hath used to pass from the said turnpike road, shall and is and are hereby required from time to time as often as occasion shall be, to open cleanse and scour the ditches watercourses and drains for such water to pass without obstruction; and that every person making default in any of the matters or things aforesaid, after ten days' notice to him her or them given, shall for every such offence forfeit any sum not exceeding five pounds.

CXIV. And be it further enacted, That it shall be lawful for the surveyor of every turnpike road and such person as he or they shall appoint, to remove and prevent all annoyances on every part of every turnpike road by filth, dung, ashes, rubbish, or any other matter or thing whatsoever being laid or thrown upon any turnpike road, or upon any open common or waste land within eighty feet of the centre thereof, and to dispose of the same for the benefit of such road, in case the owner thereof shall neglect to remove the same within twelve hours after notice in writing, signed by any two trustees or the surveyor of such road, given to such owner for that purpose, or in case the owner is not known, then after a like notice affixed for three days on the nearest turnpike gate; and to turn any watercourses sinks or drains running into along or out of any turnpike road or any part thereof to the prejudice of the same, and to open scour and cleanse any watercourses or ditches adjoining to any turnpike road, and make the same as deep and large as he shall think proper and necessary, in case the owners or occupiers of the ad-

No. XV.

3 Geo. IV.

c. 126.

Recompence to be made to Owners for Damages.

In case of Difference, Two Justices shall settle it.

Trustees not empowered to repair Causeways unless specially authorized.

Ditches, &c., of sufficient Depth and Breadth shall be made by the Occupiers of Lands for keeping the Roads dry.

Penalty on Default, not exceeding 5*l*.

For removing and preventing Annoyances.

Watercourses and Drains may be turned.

No. XV.
3 Geo. IV.
c. 126.

Penalty for a
Second Offence
5*l*.

Expences of
repairing
Drains, &c., in
Towns to be
defrayed equal-
ly between the
Trustees and
the Inhabitants.

An Account of
the Expence of
Repairs to be
laid before Two
Justices, who
shall proportion
the Amount to
be paid by the
Parties.

Owners of ad-
joining Lands to
cut the Hedges
and Branches
of Trees ob-
structing the
Road.

If neglected for
Ten Days, Sur-
veyor may com-
plain to a Jus-
tice, who may
order the same
to be done on
penalty of forfeiting 2*s*. for every 24 Feet in Length of the Hedge.

joining lands shall neglect to open scour or cleanse such watercourses or ditches after seven days' notice in writing given for that purpose; and the charges thereof and of removing any annoyances, to be settled by any one or more justices of the peace of the county or place where such part of the turnpike road shall lie, shall be reimbursed to the said surveyor by such owners or occupiers, and the same shall be recovered in such manner as the penalties and forfeitures are herein-after directed to be recovered; and if after the removal of any of the said annoyances any person shall again offend in the like kind, every such person shall for every such offence forfeit and pay any sum not exceeding five pounds.

CXV. And be it further enacted, That in all cases where any gutter, drain, sink, sewer, or underdrain made or hereafter to be made under or at the sides or near any turnpike road, shall be used as well for the conveyance of the water from such turnpike road, as for conveying water filth or other matters from the houses or premises of the inhabitants of any town, hamlet, village, street, or place, and no specific mode of repair or persons liable to the expences of maintaining the same shall be appointed, the expence of maintaining and repairing such gutter, drain, sink, sewer, or underdrain, shall be borne and defrayed equally or in proportions by the trustees or commissioners of such turnpike road and the inhabitants of the town, hamlet, village, street, or place using the same; and in order to ascertain the proportion and recover such expences, the surveyor of the turnpike road under or at the sides or near to which such gutter, drain, sink, sewer, or underdrain shall be situated, shall as often as shall be requisite repair the same, and shall then make out an account of the costs and expences of such reparation, and produce the same to any two or more justices of the peace acting for the county or place where such gutter, drain, sink, sewer, or underdrain or so much thereof as shall be repaired shall lie; and it shall and may be lawful for the said justices, and they are hereby authorized and empowered to examine the accounts and statements to be produced to them, and to inquire as to the persons using such gutter, drain, sink, sewer, or underdrain, and to proportion the amount to be paid by the trustees or commissioners of the turnpike road, and by the inhabitants and persons using such gutter, drain, sink, sewer, or underdrain respectively, and to fix and ascertain the amount of such proportion as they the said justices shall deem just and reasonable, to be paid by the said several parties respectively; and if any person or persons shall neglect or refuse to pay the sum directed by the said justices to be paid by him her or them, the same shall be levied by distress and sale of the goods and chattels of the person or persons so neglecting or refusing by a warrant under the hands and seals of any two or more justices of the peace, acting for the county or place where such person or persons shall reside.

CXVI. And be it further enacted, That the owners or occupiers of the land next adjoining to every turnpike road shall cut prune and trim their hedges to the height of six feet from the surface of the ground, and also cut down prune or lop the branches of trees bushes and shrubs growing in or near such hedges or other fences adjacent thereto (such fences, trees, bushes, or shrubs not being in any garden, orchard, plantation, walk, or avenue to a house, nor any tree bush or shrub being an ornament or shelter to a house, unless the same shall hang over the road or any part thereof, in such a manner as to impede or annoy any carriage or person travelling thereon) in such manner that the turnpike road shall not be prejudiced by the shade thereof, and that the sun and wind may not be excluded from such turnpike road to the damage thereof; and that if such owner or occupier shall not within ten days after notice given by the surveyor for that purpose cut prune and trim such hedges or cut down prune or trim such branches of trees bushes and shrubs in manner aforesaid, it shall and may be lawful for the said surveyor and he is hereby required to make complaint thereof to some justice of the limit where such turnpike road shall lie, who shall summon the occupier of such lands before him to answer the said complaint; and if it shall

appear to such justice that such occupier has not complied with the requisites of this Act in that behalf, it shall and may be lawful for such justice upon hearing the surveyor and occupier of such land or his agent (or in default of his or her appearance upon having due proof of the service of such summons) and considering the circumstances of the case to order such hedges to be cut trimmed and pruned, and such branches of trees bushes and shrubs to be cut down or pruned or trimmed in such manner as may best answer the purposes aforesaid; and if the occupier of such lands shall not obey such order within ten days after it shall have been made, and he or she shall have had due notice thereof, he or she shall forfeit the sum of two shillings for every twenty-four feet in length of such hedge which shall be so neglected to be cut trimmed and pruned, and the sum of twopence for every tree bush or shrub which shall be so directed to be cut down pruned or trimmed; and the surveyor in case of such default made by the occupier shall and he is hereby required to cut prune and trim such hedges and to cut down prune or trim such branches of trees, bushes and shrubs in the manner directed by such order, and such occupier shall be charged with and pay over and above the said penalties the charges and expences of doing the same, or in default thereof, such charges and expences shall be levied together with the said forfeitures upon his or her goods and chattels by warrant from a justice of the peace, in such manner as is authorized for forfeitures incurred by virtue of this Act.

CXVII. Provided always, and be it further enacted, That no person or persons shall be compelled nor any surveyor permitted by virtue of this Act to cut or prune any hedge at any other time than between the last day of *September* and the last day of *March*.

CXVIII. And be it further enacted, That if any person shall make or cause to be made any dwelling-house or other building or any hedge or other fence on or at the sides of any turnpike road in such manner as to reduce the breadth or confine the limits thereof, or shall fill up or obstruct any ditch at the side thereof; or shall make or cause to be made any dwelling-house or other building or any hedge or other fence on any common or waste land on the side or sides of any turnpike road within the distance of thirty feet, if within three miles of any market town, or if beyond that distance, within twenty-five feet from the middle or centre thereof; or shall make any drain, gutter, sink, or watercourse, across or otherwise break up or injure the surface of any turnpike road or of any part thereof; or shall plough harrow or break up the soil of any land or ground, or in ploughing or harrowing the adjacent lands shall turn his or their plough or harrow in or upon any land or ground within the distances aforesaid from the middle or centre of any turnpike road made or to be made, or make any other encroachment on any turnpike road within the distances aforesaid from the middle or centre thereof; every person so offending shall forfeit for every such offence forty shillings to such person as shall make information of the same; and it shall be lawful for the trustees or commissioners who have the care of any such road to cause such dwelling-house or other building, hedge, ditch, or fence, drain, sink, watercourse, gutter, or other encroachment to be taken down or filled up, or where any ditch shall be filled up or obstructed to be opened and cleansed at the expence of the person or persons to whom the same shall belong; and it shall and may be lawful for any one or more justice or justices of the peace of the county where such offence shall be committed, upon proof thereof to him or them made upon oath to levy as well the expences of taking down or filling up or cleansing such dwelling-house or other building, hedges, ditches, drains, or other encroachments as aforesaid, as the several and respective penalties hereby imposed, by distress and sale of the offender's goods and chattels, rendering the overplus (if any) to the owner on demand.

CXIX. And be it further enacted, That the said trustees or commissioners shall cause stones or posts to be set up or placed in or near the sides of every turnpike road, at the distance of one mile from each other, denoting the distance of any and every such stone or post from any

No. XV.
3 Geo. IV.
c. 126.

Hedges, &c.,
may be trimmed
at the Expence
of Defaulter.

Time of cutting
Hedges and
Trees.

Persons making
Encroachments
on the Roads by
reducing the
Breadth or nar-
rowing the Li-
mits thereof; or
making Drains
across or other-
wise injuring
the Roads; or
turning the
Plough on the
Ground within
a certain Dis-
tance of the
Road, shall for-
feit 40s.

Encroachments
to be removed.

Milestones and
Direction Posts
to be erected.

No. XV.
3 Geo. IV.
c. 126.

Names of Towns
and Villages to
be put up at the
Entrance, and
Stones to mark
the Boundaries
of Parishes.

Penalty for de-
facing them, not
exceeding 10*l*.

Extending
Time for water-
ing Roads.

Penalty on Per-
sons committing
Nuisances by
riding on Foot-
paths, or da-
maging Bridge,
&c. ;

by drawing
Timber, &c. ;

by injuring the
Road ;

by slaughtering
of Cattle ;

by obstructing
passage of Tra-
versers ;

town or place, and also such direction post at the several roads leading out of any such road, or at any crossings turnings or terminations thereof, with such inscriptions thereon denoting to what place or places the said roads respectively lead, of such height or size, and to be erected in such situations as they the said trustees or commissioners shall think proper; and also to cause to be painted in legible characters on some wall or board at the entrance of every town or village, the name of such town or village, and shall also cause stones to be put up marking the boundaries of parishes where such boundaries shall cross any turnpike road, and from time to time to repair or renew such stones posts and boards, and keep and continue legible the inscriptions on such stones, posts, walls, and boards respectively; and if any person or persons shall wilfully break, cut down, pull up, or damage any such posts stones or boards, or shall obliterate, deface, spoil, or destroy all or any of the letters figures or marks which shall be inscribed or painted thereon or on any such walls, and be thereof convicted before any justice of the peace for the county city or place where such offence shall be committed by the confession of the party or by the oath of one credible witness, such person or persons so offending shall forfeit and pay any sum not exceeding ten pounds for every such offence.

CXX. And whereas by several Acts of Parliament relating to particular turnpike roads power is given to the trustees to water the roads during certain months in the year, and to take additional tolls on account of the said watering, and the time specified in such Acts has been found in many instances too limited to afford to the public all the advantages which might be derived from watering the said roads; be it further enacted, That wherever an Act or Acts has or have been passed to enable the trustees of any turnpike road or roads to water the same or any part thereof, and to take an additional toll for such watering during a limited time in the said Act or Acts specified, it shall and may be lawful for the trustees of the said road or roads, at any general meeting held for that purpose, to order that such part of the said road or roads as by the local Act or Acts relating to the same is allowed or directed to be watered, and a certain additional toll to be taken for such watering, shall be watered, and the said additional toll for watering the same may be demanded and taken for any time between the first day of *March* in every year, and the first day of *November* following; and the said trustees shall have and they are hereby authorized to exercise and enforce all the powers, authorities, remedies, and penalties, for collecting the said additional tolls for watering the roads during the time aforesaid, as they now by law have for any other tolls which may be demanded and collected on the said roads.

CXXI. And be it further enacted, That if any person or persons shall ride upon any footpath or causeway by the side of any turnpike road made or set apart for the use or accommodation of foot passengers, or shall lead or drive any horse, ass, mule, swine, or cattle, or carriage of any description, or any wheelbarrow truck or sledge, or any single wheel of any waggon cart or carriage apart therefrom, upon any such footpath or causeway, or shall cause any injury or damage to be done to the same or the hedges, posts, rails, or fences thereof, or shall wilfully pull down or damage any bridge wall or any other building or erection made by the trustees or commissioners of any turnpike road or repaired or repairable by them; or shall haul or draw or cause to be hauled or drawn upon any part of such turnpike road any timber stone or other thing otherwise than upon wheeled carriages, or shall suffer any timber stone or other thing which shall be carried principally or in part upon wheeled carriages to drag or trail upon such road to the prejudice thereof; or shall use any tipstick joggle or other instrument for the purpose of retarding the descent of any cart or other carriage down any hill in such manner as to destroy injure or disturb the surface of any turnpike road; or shall in or upon such road or by the side or sides thereof, or in any exposed situation near thereto, kill, slaughter, singe, scald, burn, dress, or cut up any beast, swine, calf, lamb, or other cattle; or if any person driving any horse or other beast on the said road carrying any iron bar or rod basket or

pannier or any other matter or thing shall place such bar or rod basket or pannier matter or thing so that the same or any of them shall project more than thirty inches from the side of such horse or other beast, or so as in any manner to obstruct or impede the passage of any person or any horse beast or carriage travelling along such turnpike road; or if any hawker, higler, gipsy, or other person or persons travelling with any machine, vehicle, cart, or other carriage, with or without any horse mule or ass shall pitch any tent, booth, stall, or stand, or encamp upon or by the sides of any part of any turnpike road; or if any blacksmith or other person occupying a blacksmith's shop situate near any turnpike road and having a window or windows fronting the said road shall not by good and close shutters every evening after it becomes twilight bar and prevent the light from such shop shining into or upon the said road; or if any person or persons shall make or assist in making any fire or fires commonly called bonfires, or shall set fire to or wantonly let off or throw any squib, rocket, serpent, or other firework whatsoever, within eighty feet of the centre of such road; or bait or run for the purpose of baiting any bull, or play at football, tennis, fives, cricket, or any other game or games upon such road or on the side or sides thereof, or in any exposed situation near thereto, to the annoyance of any passenger or passengers; or if any person shall leave any waggon, wain, cart, or other carriage whatever, upon such road or on the side or sides thereof without any proper person in the sole custody or care thereof longer than may be necessary to load or unload the same, except in cases of accident and in cases of accident for a longer time than may be necessary to remove the same, or shall not place such waggon wain or other carriage during the time of loading or unloading the same or of taking refreshment as near to one side of the road as conveniently may be, either with or without any horse or beast of draught harnessed or yoked thereto; or shall lay any timber, stone, hay, straw, dung, manure, soil, ashes, rubbish, or other matter or thing whatsoever, upon such road or on the side or sides thereof or the footpaths or causeways adjoining, to the prejudice of such road or footways or to the prejudice annoyance interruption or personal danger of any person or persons travelling thereon; or shall suffer any water, filth, dirt, or other offensive matter or thing whatsoever, to run or flow into or upon such road or footpaths from any house, building, erection, lands, or premises adjacent thereto; or if any person driving any pigs or swine upon such road shall suffer such pigs or swine to root up or damage such road or the fences, hedges, banks, or copse on either side thereof respectively; or if any person shall after having blocked or stopped any cart waggon or other carriage in going up a hill or rising ground cause or suffer to be or remain on such road the stone or other thing with which such cart or other carriage shall have been blocked or stopped; or if any person or persons shall pull down, damage, injure, or destroy any lamp or lamp post put up erected or placed in or near the side of any turnpike road or toll house erected thereon, or shall extinguish the light of any such lamp, every person offending in any of the cases aforesaid shall for each and every such offence forfeit and pay any sum not exceeding forty shillings, over and above the damages occasioned thereby.

CXXXII. And be it further enacted, That if any horse, ass, sheep, swine, or other beast or cattle of any kind shall at any time be found wandering straying or lying about any turnpike road or across any part thereof or by the sides thereof (except on such parts of any road as lead or pass through or over any common or waste or uninclosed ground) it shall and may be lawful for any surveyor of the road where the same shall be found, or any other person or persons whomsoever, to seize and impound every such horse, ass, sheep, swine, or other beast or cattle in the common pound of the parish, township, tithing, or place where the same shall be, or in such other place as the trustees or commissioners of the road where the same shall be found shall have provided for that purpose; and the said horse, ass, sheep, swine, or other beast or cattle there to detain until the owner or owners thereof shall for every and each horse, ass, sheep, swine, or other beast or cattle so impounded pay the sum of five shillings to the person

No. XV.
3 Geo. IV.
c. 163.

by Light of
Blacksmiths'
Shops;

by making
Bonfires;

by baiting
Bulls, playing
at Football, or
other Games;

by leaving
Waggons, &c.;

by laying Tim-
ber, &c.;

by running of
Water or
Filth;

by Swine;

by leaving
Block Stones,
&c.;

or by damaging
Lamps.

Surveyors to
impound Cattle
found straying
on the Roads.

Owner to pay
5s. for every
Beast impound-
ed, besides
Charges.

No. XV.

3 Geo. IV.
c. 126.Punishing Per-
sons guilty of
Pound-breach.What shall be
deemed the
Centre of the
Road.No Encroach-
ment to be
made on the
Waste Lands
lying on the
Side of any
Road.Gates to open
inwards.Gates opening
outwards to be
removed.

impounding the same, together with the reasonable charges and expences of impounding and keeping the same; and in case the said penalty charges and expences shall not be paid within four days after such impounding, it shall and may be lawful for the surveyor of the road on which the same shall have been seized to sell or cause to be sold every such horse, ass, sheep, swine, or other beast or cattle; and the money arising from such sale after deducting the said penalty and charges and expences of impounding keeping and selling every such horse, ass, sheep, or swine, or other beast or cattle, shall be paid to the person whose property the same so sold shall appear to have been.

CXXIII. And be it further enacted, That in case any person or persons shall release or attempt to release any cow, horse, ass, swine, or other live stock or cattle which shall be seized for the purpose of being impounded under the authority of this Act, from the pound or place where the same shall be so impounded, or shall pull down damage or destroy the same pound or place, or any part thereof or any lock or bolt belonging thereto or with which the same shall be fastened, or shall rescue or release or attempt to rescue or release any distress or levy which shall be made under the authority of this Act, until or before such cow, horse, ass, swine, or other live stock or cattle seized or so impounded or such distress or levy so made shall be discharged by due course of law, every person so offending shall upon conviction thereof before any one of his Majesty's justices of the peace for the county or place where the offence shall have been committed, either upon confession of the party or parties offending or upon the oath of one credible witness, and which oath the said justice is hereby authorized and empowered to administer, be committed by such justice by warrant under his hand and seal to the common gaol or house of correction of such of the said counties wherein the said offence shall have been committed, there to remain without bail or mainprize for any time not exceeding three calendar months.

CXXIV. And whereas doubts may arise as to what is to be deemed the road or the centre of the road; be it therefore enacted, That where in this or any other Act of Parliament relating to turnpike roads, any matter or thing is directed or forbidden to be done within a certain distance of the centre of the road, that portion of ground shall be deemed and taken to be the road which has been maintained by the trustees or commissioners as hard road, and repaired with stones gravel or other materials used in forming roads, for six months immediately preceding any offence committed against such regulations; and the centre of the road shall be the middle of such hard road, where a line being drawn along the road or a point marked, an equal number of feet of hard road which have been so maintained and repaired as aforesaid for six months before shall be found on each side of such line or mark: Provided always, that nothing herein contained shall authorize any person or persons to inclose or make any encroachment on any waste lands or grounds lying on the side of any turnpike road, being part of the highway and over which the King's subjects have been used and accustomed to pass; but every person who shall inclose such waste lands and grounds or obstruct the right of passage over the same shall continue and be subject to the same process and penalties as if this Act had not been made.

CXXV. And be it further enacted, That no door or gate of any building, park, paddock, field, or inclosure whatsoever, shall be made to open into or towards any part of any turnpike road or of any footpath belonging thereto, or be suffered to continue so to open, except the hanging post thereof shall be fixed or placed so far from the centre of any part of such turnpike road as that no part of such door or gate shall when open project over any part of such turnpike road or any footpaths belonging thereto; and the occupier or occupiers of any building, park, paddock, field, or inclosure having any door or gate opening outwards contrary to the meaning of this Act, shall within fourteen days after notice to him her or them given, either personally or in writing from the surveyor of any turnpike road cause such door or gate to be hung so that no part of the

same when open shall project over any part of such turnpike road or any footpath belonging thereto; and in default thereof, the surveyor of the said turnpike road is hereby authorized to cause the door or gate to be hung according to the intention of this Act; and the person or persons guilty of such neglect or default shall upon complaint made to any justice or justices of the peace acting in and for the county or place where such neglect shall appear, and upon conviction upon the oath of one credible witness pay to such surveyor such sum as the said justice or justices shall direct to defray the expence of making the alteration and hanging such door or gate, and shall also forfeit and pay a further sum not exceeding forty shillings for his her or their neglect therein, to be fixed by and at the discretion of the justice or justices before whom such conviction shall be made.

CXXVI. And be it further enacted, That it shall and may be lawful to and for the trustees or commissioners of every turnpike road, at any meeting to be held for that purpose, on ten days' notice in writing of such meeting being affixed upon the turnpike gates on the road, and they are hereby authorized and empowered from time to time, as they shall think fit, to order and direct that in all cases where any waggon or cart shall descend any hill or hills on the said road with either of the wheels locked, a skid-pan or slipper shall be used or placed at the bottom of such wheel during the whole time of its being so locked, in such manner as to prevent the said road from being destroyed or injured by the locking of such wheel; and that it shall and may be lawful for the said trustees or commissioners from time to time to repeal alter or renew such order as they shall think necessary; and that whilst any such order so to be made as aforesaid shall be in force, all and every person or persons who shall drive or act as the driver of any waggon or cart down any hill or hills with either of the wheels locked and without using or having such skid-pan or slipper at the bottom of such wheel in manner aforesaid, shall for every such offence forfeit and pay any sum not exceeding twenty-shillings: Provided always, that a copy of such order shall be affixed on all the turnpikes standing on such road for thirty days at least before the same shall be in force.

CXXVII. And be it further enacted, That no person shall hereafter erect or cause any windmill to be erected within the distance of two hundred yards from any part of any turnpike road, under the penalty of five pounds for each and every day such windmill shall continue: Provided always, that nothing herein contained shall be construed to render legal the re-erection or continuance of any windmill in any case where by the common law such windmill shall be a public or private nuisance.

CXXVIII. And be it further enacted, That if any person or persons whatsoever shall wilfully or maliciously pull down, pluck up, throw down, level, or otherwise destroy or damage any turnpike gate or any chain, rail, post, or bar, or other fence or fences, belonging to any turnpike gate, or any other chain bar or fence of any kind whatsoever, set up or erected or hereafter to be set up or erected to prevent passengers passing by without paying any toll directed to be paid by any Act or Acts of Parliament relating thereto, or any house or houses erected or to be erected for the use of any such turnpike gate or turnpike gates or any weighing engine; or shall forcibly rescue any person or persons being lawfully in custody of any officer or other person for any of the offences before mentioned; that then and in any of the said cases every person so offending being thereof lawfully convicted shall be adjudged guilty of felony, and shall be transported to one of his Majesty's plantations abroad for seven years, or in mitigation thereof shall suffer such other punishment as the court may direct, as in cases of petit larceny.

CXXIX. And for the better discovery of offenders, be it further enacted, That the owner or owners of every waggon wain or cart, and also of every coach post chaise or other carriage, let either in the whole or in part to hire, shall paint or cause to be painted in a straight line upon

No. XV.
3 Geo. IV.
c. 126.

Owner to pay the Expence of Removal, and forfeit not exceeding 40s.

Directing the using of Skid-pan or Slippers.

Penalty on Driver not using them, not exceeding 20s.

No Windmill to be erected with 200 Yards of the Turnpike Road, on Penalty of 5s.

Punishment of Persons maliciously destroying Turnpike Gates, &c.

For Discovery of Offenders.
Names of Owners to be painted on Waggon or other Carriages in the Manner herein-mentioned,

No. XV.
3 Geo. IV.
c. 126.

Penalty for
Neglect, not
exceeding 5*l*.

One Driver
may take
charge of Two
Carts, provided
they are drawn
only by One
Horse each.

Not to extend
to Carts within
Ten Miles of
London.

Children not to
drive Carts, &c.,
on Penalty of
10*s*.

Drivers of
Waggons or
Carts not to
ride thereon,
unless some
other Person
on Foot guide
the same;

Drivers of any
Carriage caus-
ing Hurt or
Damage to
others; or quit-
ting the Road;
or driving Car-
riage without
Owner's Name;

or not keeping
the Left or Near
Side; or inter-
rupting free
Passage;

some conspicuous part of his waggon wain or cart, or upon the shafts thereof, and upon the pannels of the doors of all such coaches post chaises or other carriages before the same shall be used upon any turnpike road his her or their christain and surname and the place of his her or their abode, or the christian and surname and place of abode of the principal partner or owner thereof in large legible letters not less than half an inch in height, and continue the same thereupon so long as such waggon, cart, coach, post chaise, or other carriage shall be used upon any such turnpike road; and the owner of every common stage waggon or cart employed in travelling stages from town to town shall over and above his or her christian and surname paint or cause to be painted on the part and in the manner aforesaid the following words "common stage waggon" [or cart, as the case may be]; and every owner or proprietor of any such waggon, cart, wain, coach, post chaise, or other carriage as aforesaid using or allowing the same to be used upon any turnpike road without the names and descriptions painted thereon respectively as aforesaid, or who shall paint or cause to be painted any false or fictitious name or place of abode on such waggon, wain, cart, coach, post chaise, or other carriage, shall forfeit and pay for every such offence a sum not exceeding five pounds.

CXXX. And be it further enacted, That it shall and may be lawful for any one person to act as the driver of two carts on any turnpike road, and for such carts to pass and travel on any turnpike road being only under the care and superintendence of such single person: Provided always, that such carts when under the care of only one person shall not be drawn by more than one horse each, and the horse of the hinder cart shall be attached by a rein or reins to the back of the cart which shall be foremost, and in case the said horse shall not be so attached, the driver of the said carts shall forfeit the sum of twenty shillings, to be recovered as other penalties are by this Act to be recovered: Provided also, that this enactment shall not extend or be construed to extend to carts travelling on any turnpike road within ten miles from the cities of London or Westminster.

CXXXI. And whereas numbers of carts and waggons, and frequently more than one, are entrusted to the care of children who are unable to guide the horses drawing the same; be it therefore enacted, That no cart or waggon travelling on any turnpike road shall be driven by any person or persons who shall not be of the full age of thirteen years under a penalty not exceeding ten shillings, to be paid by the owner of such cart or waggon.

CXXXII. And whereas many accidents happen and great mischiefs are frequently done upon streets and highways, being turnpike roads, by the negligence or wilful misbehaviour of persons driving carriages thereon; be it therefore enacted, That if the driver of any waggon or cart of any kind shall ride upon any such carriages in any turnpike road, not having some other person on foot or on horseback to guide the same, (such light carts as are usually driven with reins, and are then conducted by some person holding the reins of the horse or horses, not being more than two drawing the same, excepted,) or if the driver of any carriage whatsoever on any part of any turnpike road shall by negligence or wilful misbehaviour cause any hurt or damage to any person or carriage passing or being upon such road, or shall quit the road and go on the other side the hedge or fence inclosing the same, or wilfully be at such distance from such carriage or in such a situation whilst it shall be passing upon such turnpike road that he cannot have the direction and government of the horses or cattle drawing the same; or if any person shall drive or act as the driver of any such coach post chaise or other carriage let for hire, or waggon wain or cart not having the owner's name as hereby required painted thereon, or shall refuse to discover the true christian and surname of the owner or principal owners of such respective carriage; or if the driver of any waggon, cart, coach, or other carriage whatsoever meeting any other carriage shall not keep his or her carriage on the left or near side of the road, or if any person shall in any manner wilfully prevent any other person or persons from passing him or her or any carriage under

his or her care upon such road, or by negligence or misbehaviour prevent hinder or interrupt the free passage of any carriage or of his Majesty's subjects on any turnpike road, every such driver so offending in any of the cases aforesaid, and being convicted of any such offence, either by his own confession the view of a justice of the peace or by the oath of one or more credible witness or witnesses before any justice of the peace of the limit where such offence shall be committed, or where such offender shall be apprehended, shall for every such offence forfeit any sum not exceeding forty shillings in case such driver shall not be the owner of such carriage; and in case the offender be the owner of such carriage then any sum not exceeding five pounds; and in either of the said cases shall in default of payment be committed to the house of correction for any time not exceeding one month, unless such forfeiture shall be sooner paid; and every such driver offending in either of the said cases shall and may by the authority of this Act, with or without any warrant, be apprehended by any person or persons who shall see such offence committed, and shall be conveyed before some justice of the peace, to be dealt with according to law; and if any such driver in any of the cases aforesaid shall refuse to discover his name, it shall and may be lawful for the justice of the peace before whom he shall be taken, or to whom any such complaint shall be made, to commit him to the house of correction for any time not exceeding three months, or to proceed against him for the penalty aforesaid, by a description of his person and the offence only, without adding any name or designation, but expressing in the proceedings that he refused to discover his name.

CXXXIII. And be it further enacted, That the trustees or commissioners of any turnpike road, at a public meeting, may and they are hereby empowered, if they think fit, to direct prosecutions by indictment or otherwise against the offender or offenders for any nuisance or other offence done committed or continued in or upon any of the turnpike roads under their care respectively, or to recover any penalty or forfeiture incurred under the provisions of this or any other turnpike Act at the expence of the revenues belonging to such turnpike roads, to be allowed by such trustees or commissioners at some subsequent meeting.

CXXXIV. And be it further enacted, That in all cases where any action shall be brought by or against any trustee or trustees or commissioner or commissioners of any turnpike road, evidence of such trustee or trustees commissioner or commissioners having acted as such together with the Act of Parliament by which he or they was or were appointed, or the order or a copy of the order for his or their appointment or election, in case he or they was or were appointed or elected by the trustees or commissioners, shall be sufficient proof of his or their being a trustee or trustees commissioner or commissioners.

CXXXV. Provided always, and be it further enacted, That when and as often as any sum or sums of money shall be directed or ordered to be paid by any justice or justices of the peace, in pursuance of the directions of any Act of Parliament relating to turnpike roads as or by way of compensation or satisfaction for any materials, costs, damages, spoil, or injury of any nature or kind whatsoever done or committed by the said trustees or commissioners, or any person or persons acting by or under their authority, and such sum or sums of money shall not be paid by the said trustees or commissioners to the party or parties entitled to receive the same, within fourteen days after demand in writing shall have been made, stating the order of such justice or justices from the clerk to the said trustees or commissioners or their treasurer, in pursuance of the direction or order made by such justice or justices, then and in such case the amount of such compensation or satisfaction shall and may be levied and recovered by distress and sale of the goods and chattels vested in the said trustees or commissioners by virtue of any such Act, under a warrant to be issued for that purpose by such justice or justices of the peace, which warrant any such justice or justices is and are hereby authorized and required to grant under his hand and seal or their hands and seals, on application made to him or them for that purpose by the party or parties

No. XV.
3 Geo. IV.
c. 126.

the Driver, if
not the Owner,
to forfeit 40s.
if he be the
Owner, 5l.

Penalty on
Driver not dis-
covering his
Name.

Trustees or
Commissioners
may direct Pro-
secutions for
Nuisances, &c.

If Action be
brought against
a Trustee, Evi-
dence of his
being appointed
and acting
sufficient.

Recovery of
Money awarded
against the
Trustees.

No. XV.
3 Geo. IV.
c. 126.

Penalty on Persons employed with Salaries refusing to execute the Act, 5*l*.

Inhabitants good Witnesses.

Penalty on Witnesses not attending when summoned, not exceeding 40*s*.

Persons resisting the Execution of this Act or assaulting Collector, to forfeit not exceeding 10*l*.

For securing transient Offenders.

entitled to receive such sum or sums of money, as or by way of compensation or satisfaction for any such materials, costs, damages, spoil, or injury as aforesaid; and in case any overplus shall remain after payment of such sum or sums of money, and the costs and expences of hearing and determining the matter in dispute, and also the costs and expences of such distress and sale, then and in such case such overplus shall be returned on demand to the said trustees or commissioners or to their treasurer for the time being, as the case may be.

CXXXVI. And be it further enacted, That every constable headborough or tithingman refusing or neglecting to put this Act into execution, or to account for and deliver any forfeiture or penalty according to the directions of this Act, and every surveyor of any turnpike road and every toll collector, and all other persons employed or to be employed by any trustees or commissioners appointed or to be appointed for the repairing roads, who do or shall receive salaries or rewards, who shall wilfully neglect for the space of one week after any offence being to their knowledge committed, to lay such information upon oath before one or more of his Majesty's justices of the peace for the limit wherein such offence was committed as by this Act is directed, shall upon due information made upon oath before one of his Majesty's justices of the peace for the said limit forfeit for every such neglect the sum of five pounds.

CXXXVII. Provided always, and be it further enacted, That no conviction shall be had or made by virtue of this Act, unless upon the view of a justice convicting or on confession of the party accused or upon the oath of one or more credible witness or witnesses, and that any inhabitant of any parish township or place in which any offence shall be committed contrary to this Act, shall not be deemed an incompetent witness by reason of his or her being an inhabitant of such parish township or place; and that any justice of the peace may act in the execution of this Act, notwithstanding he may be a creditor or a trustee or commissioner for making repairing and maintaining the roads on which any offence contrary to this Act shall be committed.

CXXXVIII. And be it further enacted, That if any person or persons after having been paid or tendered a reasonable sum of money for his her or their costs charges and expences, shall be summoned as a witness or witnesses to give evidence before any justices of the peace touching any matter of fact contained in any information or complaint for any offence against any Act of Parliament relating to turnpike roads or this Act, either on the part of the prosecutor or the person or persons accused, shall refuse or neglect to appear at the time and place for that purpose appointed, without a reasonable excuse for his her or their refusal or neglect, or appearing shall (after having been paid or tendered a reasonable sum for his costs charges and expences) refuse to be examined upon oath, and give evidence before such justice of the peace, then and in either of such cases such person shall forfeit for every such offence any sum not exceeding forty shillings.

CXXXIX. And be it further enacted, That in case any person or persons shall resist or make forcible opposition against any person or persons employed in the due execution of this Act, or any particular Act made for amending any turnpike road, or shall assault any surveyor or any collector or collectors of the tolls, in the execution of his or their office or offices, or shall pass through any turnpike gate or gates, rail or rails, chain or chains, or other fence or fences set up or to be set up by authority of Parliament, without paying the toll appointed to be paid at such gate or other fence, or shall hinder or make any rescue of cattle or other goods distrained by virtue of this Act, every such person offending therein shall for every such offence forfeit any sum not exceeding ten pounds at the discretion of the justice or justices of the peace before whom he or she shall be convicted.

CXL. And whereas offences may be committed against this Act, or other Acts for repairing and maintaining turnpike roads, by persons unknown to the collectors or other officers; be it therefore further enacted, That it shall be lawful for any of the trustees or commissioners

of any turnpike road, or their clerk or clerks or their collectors surveyors or other officers respectively, and such other person or persons as he or they shall call to his or their assistance, without any warrant or other authority than this Act, to seize and detain any unknown person or persons who shall commit any such offence or offences, and take him her or them before any justice of the peace for the county district or place near to the place where the offence or offences shall be committed, or such offender or offenders shall be seized and apprehended; and such justice and justices shall and is and are hereby required to proceed and act with respect to such offender or offenders, according to the provisions of this or any other Acts for repairing turnpike roads.

Recovery and
Application of
Penalties.

CXLI. And be it further enacted, That all penalties forfeitures and fines by this Act inflicted or authorized to be imposed (the manner of levying and recovering and applying whereof is not herein otherwise directed,) shall upon proof and conviction of the offences respectively, before any justice of the peace for the county riding or place where the offence shall have been committed (as the case may require) either by the confession of the party offending, or by the oath of any credible witness or witnesses (which oath such justice is in every such case hereby fully authorized to administer) be levied, together with the costs attending the information and conviction, by distress and sale of the goods and chattels of the party or parties offending, by warrant under the hand and seal of such justice (which warrant such justice is hereby empowered and required to grant,) and the overplus (if any) after such penalties forfeitures and fines, and the charges of such distress and sale are deducted, shall be returned upon demand unto the owner or owners of such goods and chattels; and in case such fines penalties and forfeitures shall not be forthwith paid upon conviction, then it shall be lawful for such justice to order the offender or offenders so convicted to be detained and kept in safe custody until return can be conveniently made to such warrant of distress, unless the offender or offenders shall give sufficient security, to the satisfaction of such justice, for his or their appearance before such justice on such day or days as shall be appointed for the return of such warrant of distress, such day or days not being more than seven days from the time of taking any such security, and which security the said justice is hereby empowered to take by way of recognizance or otherwise; but if upon the return of such warrant it shall appear that no sufficient distress can be had thereupon, then it shall be lawful for any such justice of the peace as aforesaid, and he is hereby authorized and required by warrant or warrants under his hand and seal to cause such offender or offenders to be committed to the common gaol or house of correction of the county riding or place where the offender shall be or reside, there to remain without bail or mainprize for any time not exceeding three calendar months, unless such penalties forfeitures and fines and all reasonable charges attending the same shall be sooner paid and satisfied; and the monies arising by such penalties forfeitures and fines respectively, when paid or levied, if not otherwise directed to be applied by this Act, shall be from time to time paid, one moiety thereof to the informer or person suing for and recovering the same, and the other moiety to the treasurer or treasurers to the trustees or commissioners for repairing and maintaining the road on which such offence shall have been committed, and applied and disposed of for the purposes of such road and of this Act.

Justices may
mitigate Penalties.

CXLII. Provided always, and be it enacted, That it shall and may be lawful for any justice or justices of the peace before whom any person shall be convicted of any offence against this Act, or any Act for making and repairing turnpike roads, if he or they shall think proper to mitigate or reduce the penalty incurred by such person, so as such reduction or mitigation do not exceed two-thirds of the penalty to which such person would be liable under this or any other Act.

Prosecutors
may recover by
Information, or
by Action, &c.

CXLIII. And be it further enacted, That every prosecutor or informer shall sue for and recover any forfeiture or penalty imposed by this or any other Act or Acts of Parliament made for erecting turnpikes, or for

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repairing and amending turnpike roads, in the manner herein-after mentioned; (that is to say,) if the same shall exceed the sum of twenty pounds or upwards, it shall be recoverable by action of debt in any of his Majesty's Courts of Record, in which it shall be sufficient to declare that the defendant is indebted to the plaintiff in the sum of

being forfeited by an Act passed in the third year of the reign of his Majesty King George the Fourth, intituled *An Act [here set forth the title of this Act, if the offence shall be committed under it, or, An Act, &c. setting out the title of the Act under which the penalty shall be claimed;]* and the plaintiff, if he recover in any such action, shall have full costs, provided that there shall not be more than one recovery for the same offence, and that twenty-one days' notice be given to the party offending, previous to the commencement of such action, and that the same be brought and commenced within three calendar months after the offence for which such action is brought shall have been committed; and if such penalty or forfeiture shall not exceed the sum of twenty pounds, and shall be more than five pounds, the same shall be recoverable only by information before a justice of the peace, subject to appeal in manner herein-after mentioned; and if such penalty or forfeiture shall not exceed the sum of five pounds, the same shall in like manner be recoverable only by information before a justice of the peace, and no writ of *certiorari* to remove the same shall be allowed.

Party aggrieved
may recover
satisfaction for
Special Dam-
ages.

CXLIV. And be it further enacted, That where any distress shall be made for any sum or sums of money to be levied by virtue of this Act, or any other Act for repairing amending or maintaining any turnpike road, the distress itself shall not be deemed unlawful, nor the party or parties making the same, be deemed a trespasser or trespassers on account of any default or want of form in any proceeding relating thereto; nor shall the party or parties distraining be deemed a trespasser or trespassers, *ab initio*, on account of any irregularity which shall be afterwards done in making the distress; but the person or persons aggrieved by such irregularity, may recover the satisfaction for the special damage in an action on the case: Provided always, that no plaintiff or plaintiffs shall recover in any action for such irregularity trespass or wrongful proceedings, if tender of sufficient amends shall be made by or on behalf of the party or parties who shall have committed or caused to be committed any such irregularity or wrongful proceedings before such action brought; and in case no such tender shall have been made, it shall and may be lawful for the defendant in any such action, by leave of the court where such action shall depend, at any time before issue joined, to pay into court such sum of money as he or they shall see fit; whereupon such proceedings or orders and judgment shall be had made and given in and by such court as in other actions where the defendant is allowed to pay money into court.

Appeal may be
made to Quar-
ter Sessions.

CXLV. Provided always, and be it further enacted, That if any person shall think himself or herself aggrieved by any thing done by any justice or justices of the peace in pursuance of this Act, except under the particular circumstances herein-after mentioned, and for which no particular method of relief hath been already appointed, such person in case the penalty or forfeiture shall exceed the sum of forty shillings, where the appeal is to be against a conviction for a penalty or forfeiture, may appeal to the justices of the peace, at the next general quarter sessions of the peace to be held for the limit wherein the cause of such complaint shall arise, such appellant first giving or causing to be given to such justice, by whose act or acts such persons shall think himself or herself aggrieved, notice in writing of his or her intention to bring such appeal and of the matter thereof, within six days after the cause of such complaint arose, and within four days after such notice entering into recognizances before some justice of the peace with two sufficient sureties, conditioned to try such appeal at, and abide the order of and pay such costs as shall be awarded by the justices at such quarter sessions, and also to pay the penalty or forfeiture in case the conviction should be affirmed; and each and every justice of the peace having received notice of such appeal as

Tender of
Amends.

aforesaid, shall return all proceedings whatever had before him respectively, touching the matter of such appeal to the said justices at their general quarter sessions aforesaid, on pain of forfeiting fifty pounds for every such neglect, and the said justices at such session, upon due proof of such notice having been given as aforesaid, and of such recognizance having been entered into in manner before directed, shall hear and finally determine the causes and matters of such appeal in a summary way, and award such costs to the parties appealing or appealed against, as they the said justices shall think proper, to be levied and recovered as herein-before directed, and the determination of such quarter sessions shall be final and conclusive, to all intents and purposes; and no proceeding to be had or taken in pursuance of this Act, shall be quashed or vacated for want of form, or removed by *certiorari*, or any other writ or process whatsoever, into any of his Majesty's Courts of Record at *Westminster*; any law or statute to the contrary notwithstanding: Provided always, that in case there shall not be time to give such notice, and enter into such recognizances as aforesaid, before the next sessions to be holden after the conviction of the appellant, then and in every such case such appeal may be made to the next following sessions, and shall be there heard and determined.

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No *Certiorari*.

Power to administer Oaths.

Limitation of Actions.

General Issue.

Treble Costs.

Forms in the Schedule annexed to be used.

Act not to extend to the Commercial Road, and Branches of Road leading from and out of the same, authorized to be made and

CXLVI. And be it enacted, That where any oath or affirmation is by this or any Act relating to any turnpike road required and directed to be made or taken, the justices of the peace of any county or place, or the trustees or commissioners of any turnpike road, (as the case may be,) and according to the several jurisdictions herein given to them respectively as aforesaid, shall and they are hereby respectively empowered to administer the same.

CXLVII. And be it further enacted, That if any action or suit shall be commenced against any person or persons for any thing done in pursuance of this Act, then and in every such case such action or suit shall be commenced or prosecuted within three months after the fact committed, and not afterwards; and the same and every such action or suit shall be brought in the county or place where the cause of action shall have arisen, and not elsewhere; and the defendant or defendants in every such action or suit shall and may plead the general issue, and at the trial thereof, give this Act and the special matter in evidence; and if the matter or thing complained of shall appear to have been done under the authority and in execution of this Act, or if any such action or suit shall be brought after the time limited for bringing the same, or be brought and laid in any other county or place than as aforementioned, then the jury shall find for the defendant or defendants, and if the plaintiff shall become nonsuit, or discontinue his or her action after the defendant shall have appeared, or have a verdict against him or her, or if upon demurrer, judgment shall be given against the plaintiff, the defendant shall and may recover treble costs, and have the like remedy for recovery thereof as any defendant or defendants hath or have in any cases by law.

CXLVIII. And be it further enacted, That the forms of proceeding relative to the several matters contained in this Act, which are set forth and expressed in the schedule hereunto annexed, may be used upon all occasions, with such additions and variations only as may be necessary to adapt them to the particular exigencies of the case, and that no objection shall be made or advantage taken for want of form in any such proceedings by any person or persons whomsoever.

CXLIX. Provided always, and be it further enacted, That nothing in this Act contained shall extend, or be construed, adjudged, deemed, or taken to extend to the turnpike road called the *Commercial Road*, or the several branches leading from and out of the same, authorized to be made repaired and maintained under and by virtue of five several Acts of Parliament made and passed in the forty-third, forty-fourth, forty-sixth, forty-ninth, and fifty-first years of the reign of his late Majesty King *George the Third*, for making and maintaining the roads communicating with the *West and East India Docks*, and for repairing the *Cannon Street Road*,

repaired by the Acts of 43, 44, 46, 49, and 51 G. 3.:

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and for making and maintaining a new road to *Barking*, and a road from the *Romford* and *Whitechapel* Road to *Tilbury Fort* in the counties of *Middlesex* and *Essex*, and also for making a new branch of road from *King David Lane*, *Shadwell*, to the *Essex* Road at *Mile End* in the county of *Middlesex*, or to affect, encroach upon, vary, alter, or interfere with any of the tolls weights or duties created by virtue of the said Acts or any of them, or any of the powers and authorities given to or vested in the trustees acting under or by virtue of the said Acts, or any or either of them.

Not to extend to 56 G. 3. c. lxxiii. for improving the Road from Glasgow to Carlisle.

Parties interested may signify their Consent to any Turnpike Bill by Affidavit.

Justices of the Peace or Masters Extraordinary in Chancery empowered to take all such Affidavits.

CL. Provided always, and be it enacted, That nothing herein contained shall be deemed construed or taken to extend to an Act passed in the fifty-sixth year of the reign of his late Majesty King *George the Third*, intituled *An Act for improving the Road from the City of Glasgow to the City of Carlisle*, or to three several Acts amending the same, passed in the fifty-eighth and fifty-ninth years of the reign of his said late Majesty, and in the first and second years of the reign of his present Majesty.

CLI. And be it further enacted, That all persons concerned or interested in any bill for making or repairing any turnpike road or for widening or diverting such road, may signify their consent to the same by affidavit, taken and authenticated according to the form herein-after prescribed, unless the committee of either house of Parliament to whom such bill or the petition of such bill shall be referred shall otherwise order.

CLII. And be it further enacted, That it shall and may be lawful for any one or more justice or justices of the peace or master or masters extraordinary in chancery to take affidavits on oath or affirmation (which oath or affirmation such justice or justices or master or masters extraordinary in chancery is and are hereby authorized and empowered to administer) of the answers that may be given by the owners and occupiers of lands on applications made to them for their consent to such bills; and every affidavit shall be in the form following as near as the circumstances of the case will admit;

‘ A. B. of maketh oath and saith, That he did apply to C. D. who he believes to be the owner of [set out the property] being part of the lands through which the intended turnpike road from E. to F. is to be carried or the alteration to be made (as the case may be) and that he received from such owners the answers set forth in the paper hereunto annexed.

(Signed)

A. B.

‘ Sworn [or, solemnly affirmed] before me [as in the other forms herein-before set forth.]

‘ As witness my hand and seal,’

And no such affidavit as aforesaid shall be subject or liable to any stamp duty now payable by any Act or Acts of Parliament or which shall hereafter be imposed unless specially named and made subject thereto by the Act or Acts of Parliament imposing the same.

Proof of Hand-writing of Justice to be deemed sufficient.

CLIII. Provided always, and be it enacted, That proof of the hand-writing of any justice of the peace or master extraordinary in chancery before whom any such affidavit shall be made as aforesaid, shall be sufficient evidence of the signature of such justice or master extraordinary before any committee of either house of Parliament, without any witness being produced who was present at the time when such affidavit was made, and without a witness being produced to prove that such justice of the peace or master extraordinary in chancery before whom such affidavit was made was at the time of making such affidavit a justice of peace or master extraordinary in chancery.

The SCHEDULE to which this Act refers; Containing
the FORMS of PROCEEDINGS mentioned in the foregoing
Act.

No. 1.—ORDER of Trustees for erecting a Weighing Engine.

AT a meeting of the Trustees of the Turnpike Roads under an Act
passed in the Year of the Reign of his Majesty King
George the "For [state the title of the Act] held
at the day of

IN pursuance of the powers given to us by an Act passed in the third
year of the reign of his Majesty King George the Fourth, for regulat-
ing turnpike roads, we do hereby order that an engine proper for the
weighing of carriages of the constructions and weights specified in the
said Act, be forthwith erected at or as near as conveniently may be to
the toll gate or bar now erected upon the said turnpike road at ;
and that A. B. the [Treasurer, Clerk, or] Surveyor of the said turnpike
road, do contract with some proper person [or, with C. D.] [in case the
Trustees shall think fit to name the person] for the making and erecting
such engine, and do inspect and take care that the same is properly done ;
and we do order the gate keeper at the said gate or bar for the time being
to attend the said weighing engine, and carefully to weigh all carriages
passing loaded upon the said road, at the place where such engine shall
be erected, together with the loading thereof, and to take the several ad-
ditional tolls or rates for overweight, and give tickets of the weight of such
carriages and loading when required by the driver thereof, and also to
enter in a separate book to be kept by him for that purpose, an account
of every carriage so weighed, which shall with the loading exceed the
weights allowed by the said Act, and account to us for the money re-
ceived for all such overweight.

No. 2.—TABLE of Weights allowed in Winter and Summer, to Car-
riages directed to be weighed (including the Carriage and Loading) by
the Act of the Third George the Fourth.

	SUMMER.	WINTER.
	Tons. Cwts.	Tons. Cwts.
To every Waggon with Nine-inch Wheels - -	6 10	6 —
To every Cart with Nine-inch Wheels - - -	3 10	3 —
To every Waggon with Six-inch Wheels - - -	4 10	4 —
To every Cart with Six-inch Wheels - - - -	2 15	2 10
To every Waggon with Wheels of the Breadth of Four Inches and a Half - - - - -	4 5	3 15
To every Cart with Wheels of the Breadth of Four Inches and a Half - - - - -	2 12	2 7
To every Waggon with Wheels of Three Inches	3 15	3 5
To every Cart with Wheels of Three Inches -	1 15	1 10

No. 3.—AGREEMENT between Trustees of different Turnpike Roads
for erecting One Weighing Engine for the Use of such roads.

AT a Meeting of the Trustees of the Turnpike Roads, under an Act
passed in the Year of the Reign of King George the

"For [state the principal part of the title of the Act] and
also of the Trustees of the Turnpike Roads, under an Act passed
in the Year of the Reign of King George the "For,
[&c. as above], held at the day of

for the purpose of agreeing upon and order-
ing a Weighing Engine at the joint expence of the Trustees, for
the use of the said several Turnpike Roads, pursuant to the powers
given by an Act passed in the third year of the reign of his Ma-
jesty King George the Fourth, "For regulating Turnpike Roads."

IT appearing to us that a Weighing Engine may be erected at
[describing the spot where it can be most conveniently placed], which

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will accommodate both the said Turnpike Roads, according to the true intent and meaning of the said Act: We do therefore order, &c. [as in the form above mentioned], and we do hereby agree and order, that the expences of making and erecting the said Weighing Engine, and the sum of which we do hereby agree and order shall be paid to the toll-gatherer attending the said toll gate for the time being, weekly for his extraordinary trouble in attending the said Weighing Engine, shall be advanced and paid by the Treasurers of the said several turnpike roads, in the shares and proportions following; *videlicet*, that the Treasurer of the road shall pay [one-half], [two-third], [three-fourth] parts thereof, [as the Trustees shall agree], and the Treasurer of the road shall pay the remaining [one-half], [one-third], or [one-fourth] part thereof; and that the money to be received at the said Weighing Engine by forfeitures for overweight, shall be paid to the said respective Treasurers in the like proportions, and applied by them for the use of the said respective turnpike roads.

(Signed)

No. 4.—NOTICE of a Meeting of Trustees for ordering a Side Gate to be erected.

NOTICE is hereby given, That the Trustees of the Turnpike Roads under an Act passed in the year of the reign of King George the "For [state the material parts of the title of the Act], will meet at the house of at on the day of next, at the hour of in the noon, in order to consult about erecting a Toll Gate on the side of the said turnpike road, at or near a place called across a certain highway there, leading to

Dated the

day of

A. B. Clerk to the said Trustees.

No. 5.—ORDER of the Trustees for erecting a Side Gate.

AT a Meeting of the Trustees of the Turnpike Roads, under an Act passed in the year of the reign of King George the "For [here state the material parts of the title of the Act], being assembled this day of to enforce the directions of an Act passed in the third year of the reign of King George the Fourth, "For regulating Turnpike Roads," [as far as the same respects the erecting of Side Gates.]

IN pursuance of public notice given in writing upon all the toll gates erected on the said road, and also in the newspapers circulated in this part of the country for fourteen days now last past, We do order, that a Toll Gate shall be erected on the side of the said turnpike road, at or near a place called across a certain highway there, leading to and that the following toll be taken at the said gate, *videlicet*, [here insert the particular tolls to be taken at the said Side Gate.]

No. 6.—NOTICE for letting Tolls.

NOTICE is hereby given, That the Tolls arising at the Toll Gate [or Toll Gates, if more than one] upon the turnpike road at called or known by the name of the Gate, will be let by Auction to the best bidder, at the house of at on the day of next, between the hours of and in the manner directed by the Act passed in the third year of the reign of his Majesty King George the Fourth, "For regulating Turnpike Roads," which tolls produced the last year the sum of above the expences of collecting them, and will be put up at that sum; whoever happens to be the best bidder, must at the same time pay one month in advance (if required) of the rent at which such tolls may be let, and give security, with sufficient sureties, to the

satisfaction of the trustees of the said turnpike road, for payment of the rest of the money monthly, [or in such other proportions as shall be directed.]

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A. B. Clerk to the Trustees of the said Turnpike Road.

No. 7.—ORDER of Trustees for reducing the Tolls.

AT a meeting of the Trustees of the Turnpike Roads, under an Act passed in the _____ year of the reign of King George the _____
the _____ "For, &c. [state the principal part of the title of the Act], held at the _____ day of _____

WE, whose names are subscribed, being _____ or more of the trustees acting under the said Act, being now assembled for reducing the tolls authorized to be taken by and under the said Act, pursuant to public notice given for that purpose in the _____ newspapers circulated in this part of the country, and also affixed upon all the turnpike gates erected upon the said turnpike road, for upwards of one calendar month now last past, and having the consent of the several persons entitled to five-sixths parts of the money now remaining due upon the credit of the said tolls, this day signified and proved to us, do hereby order that the tolls granted by the said Act shall, from and after the _____ day of _____ be lessened and reduced in the following manner [here state the several reductions proposed to be made].

No. 8.—AGREEMENT between the Trustees of a Turnpike Road and a Person liable by Tenure to repair some part of it.

AT a Meeting of the Trustees of the Turnpike Roads, under an Act passed in the _____ Year of the Reign of King George the _____
"For [state the principal part of the title of the Act], held at the _____ day of _____

WHEREAS A. B. of _____ is liable by tenure, &c. [as the case shall be] to the repair of a certain highway leading between _____ and _____ of the length of _____ yards or thereabouts, and the said highway being now made turnpike road by virtue of the said Act, will occasion a greater expence to make and keep the same in proper repair than would have been necessary if no such Act had been obtained, and the said A. B. attending this meeting in person [or, by C. D. his attorney or agent authorized to treat in his behalf] the said trustees and the said A. B., &c. in pursuance of a power given by an Act passed in the third year of the reign of King George the Fourth, "For regulating Turnpike Roads," have, in order to put and keep the said road in proper condition and repair, come to the following agreement, videlicet; That the said trustees shall on or before the _____ day of _____ next, pay and allow the sum of _____ out of the tolls arising upon the said turnpike roads towards putting the said road into proper repair, to be laid out and expended by the surveyor of the said turnpike road, and that the said A. B. shall advance and pay into the hands of the treasurer of the said turnpike road on or before the _____ day of _____ next, the sum of _____ to be also laid out and expended by the said surveyor in the repair of the said road, and that from and after the _____ next, the said turnpike road shall be kept in repair by the said trustees out of the said tolls as aforesaid, so long as the said turnpike Act shall continue, upon the said A. B. paying into the hands of their treasurer the sum of _____ upon the _____ in every year, which the said A. B. doth hereby for himself and his heirs agree to pay accordingly, so long as the said road shall be so repaired by the said trustees as aforesaid.

[Or, if it shall be agreed that A. B. shall keep the road in repair upon having an annual allowance in money or statute duty from the said trustees, let the agreement be varied and adapted to the case.]

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No. 9.—MAGISTRATES' SUMMONS.

*To the Surveyors of the Highways of the Parish of
in the County of*

UPON application made by _____ surveyor of the turnpike
roads from _____ appointed by
the trustees for putting into execution an Act of Parliament passed in the
year of the reign of his Majesty King George the
intituled "An Act
by order of the trustees for the said road to us, two of his Majesty's jus-
tices of the peace acting in and for the said county; We do hereby sum-
mon you, the surveyors of the highways of the parish or place of
in the said county, to deliver a list to the said

as such surveyor as aforesaid, at his house situate in the said county,
within _____ days after the service of this summons, of the
names of the several persons, inhabitants of the said parish or place, and
who are by law subject and liable to do statute work for the present year
upon the road situate in the said parish or place, or to the payment of any
money in lieu of or as a composition for such statute work, distinguishing
the nature of the work to be done, whether with teams or draughts or
otherwise, and also the amount of the respective sums to be paid; and
we the said justices do hereby require you to make such lists of names
in such manner and under such regulations and restrictions as is or are
directed by any law or statute now in force and effect for the repair of the
public highways.

And in case you shall refuse or wilfully neglect to give in such list as
aforesaid, or shall knowingly or wilfully give in a false or imperfect list,
you so offending will for every such offence forfeit and be liable to pay a
sum not exceeding ten pounds.

Given under our hands and seals this _____ day of
in the year of our Lord 182 .

No. 10.—NOTICE to be given to Surveyors of Highways.

*To the Surveyors of the Highways of the Parish or Place of
in the County of*

I DO hereby give you notice, that the list delivered by you to me as
surveyor of the turnpike road from _____ to
in the said county of _____ of the names of the several persons
who within your said parish or place are by law liable to do statute work
for the present year, or to the payment of money in lieu of or as a com-
position for such statute work, will be laid before two of his Majesty's jus-
tices of the peace for the said county, in pursuance of the directions of
the Act, passed in the _____ year of his Majesty King
George the _____, intituled "An Act
on the _____ day of _____ at
in the said county, in order that such two justices may adjudge and de-
termine what part or proportion of the statute work for the said year
shall be done upon the said road, and also what proportion of the com-
position money shall be paid to the trustees of the said road, or to their
treasurer. And I do hereby give you further notice, that I shall apply
to the justices for [*one-half, one-third, as the case may be*] of the statute
duty from your parish for this year, which according to the list delivered
by you will be (*say*) _____ days in the whole _____ in
composition money. If you object to this division, you will in course
appear, but if not, the same will be confirmed by the justices, if they think
proper.

Dated this _____ day of _____
Surveyor of the said turnpike road.

No. 11.—JUSTICES' ORDER, apportioning Statute Labour.

WE, two of his Majesty's justices of the peace, acting in and for
to wit. } the county of _____ upon application by
the surveyor appointed by the trustees of the turnpike road from
to _____ in the said county, in pursuance of an Act of

Parliament, passed in the _____ year of the reign of his Majesty King George the _____ intitled *An Act for* do adjudge and determine that the inhabitants of the parish of _____ in the said county of _____ shall do _____ part or proportion of the statute work for the ensuing year upon such turnpike road in the said parish of _____ being a parish in which the said road lies, and that _____ proportion of the money received by the surveyor or surveyors of the highways of such parish or place, in lieu of or as a composition for such statute work, shall be by him or them paid to the said trustees of the said turnpike road, or to their treasurer or other person authorized by them to receive the same, on or before the _____ day of _____; the names of the several persons appointed to do such proportion of the statute work on the said turnpike road appear in the schedule to this order.

Given under our hands the _____ day of _____ 182

(Signed)

No. 12.—ORDER of Justices at a Special Sessions to take Part of the Statute Duty from Turnpike Roads, for the Benefit of other Highways in the said Parish, &c.

County of _____ } AT a Special Sessions held by the justices of the peace to wit. } for the said county, acting in the [hundred] of _____ within the said county, at _____ on the _____ day of _____

WHEREAS application and complaint upon oath has been made unto us by *A. B.* surveyor of the [parish, &c.] of _____ that the several highways, not being turnpike, within the said [parish, &c.] are very extensive and in bad repair, and that a considerable part of the statute duty arising within the said [parish, &c.] hath been called forth and required to be applied in the repair of certain turnpike roads lying within the said [parish, &c.] which are in good condition and have a considerable revenue for their support, arising from the tolls collected thereupon; and we having duly summoned *C. D.* the surveyor of the said turnpike road to appear before us, to show cause why the said statute duty called forth and applied by him to the repair of the said turnpike road, should not be withdrawn therefrom and applied to the repair of the other highways within the said [parish, &c.] and upon hearing the said *C. D.* and receiving an account of the revenues and debts of the said turnpike road, and of the state and condition of the repair of the said turnpike road and highway respectively; and it appearing to us, upon full consideration had thereupon, that part of the statute duty hitherto employed by the said [parish, &c.] for the repair of the said turnpike road may be conveniently dispensed, without endangering the securities for the money advanced upon the credit of the tolls thereof, and that such statute duty is wanted for the repairs of the other highways within the said parish; We in pursuance of the power given to us by the Act passed in the third year of the reign of King George the Fourth, "For regulating Turnpike Roads," do order that from and after the _____ day of _____ next, there shall be only [one] day's statute duty performed by the inhabitants of the said [parish, &c.] upon the said turnpike road within the same, and that the remainder of the statute duty shall be performed upon the other highways within the said [parish, &c.]

[If there are more turnpike roads than one, or the whole statute duty shall be thought fit to be taken away, this form must be varied to fit those cases; the summons to the surveyors will be very easily formed from this order.]

No. 13.—CERTIFICATE of the above Order to the Justices of the Peace at their Quarter Sessions.

I *A. B.* clerk to the trustees mentioned in the above order, do hereby certify to the justices of the peace for the [county] [riding] [division] of _____ at their general quarter sessions of the peace, that the above is a true copy of the order made by the said trustees for the purposes therein mentioned.

Dated this _____

day of _____

A. B.

No. XV.
3 Geo. IV.
c. 126.

No. 14.—AGREEMENT by Subscription for advancing Money to make and repair a Turnpike Road or Highway.

WE whose names are subscribed, do agree to advance and pay the several sums wrote by us opposite to our names, unto to be laid out and expended in the making and repairing a certain highway leading from to after an Act of Parliament shall be obtained for making the same turnpike road, upon having the tolls to be collected upon such turnpike road assigned and made over to us as a security for the respective sums so to be advanced by us, together with interest for the same after the rate of per centum per annum, which sums we do hereby severally agree to pay by instalments, in the following manner, *videlicet* ; one fourth part thereof on the day of next ; one other fourth part, [*&c. &c. &c.*]

Dated this

day of

No. 15.—WARRANT from a Justice of the Peace to enter the Toll Gate House and remove the Persons therein.

County of } TO the [Constable], [Headborough], [Tithingman], of
to wit. } in the said County.

WHEREAS complaint hath been made unto me *A. B.* esquire, one of his Majesty's justices of the peace for the said county, upon the oath of and other evidence now produced to me, that *C. D.*, who now inhabits the turnpike or toll gate house at

upon the turnpike road leading from to and was appointed to collect the tolls there, hath been duly discharged by the trustees of the said turnpike road, from any further collecting or receiving the tolls arising at the said gate, and hath refused and still doth refuse to quit the possession of the said house, and the said *C. D.* having been summoned to appear before me this day, to show cause why he should not be removed from the said house, and having shown no sufficient cause for that purpose [*or, not having appeared*], I do hereby authorize and require you, with such assistance as shall be necessary, to enter into the said toll house or turnpike house, and the buildings belonging thereto, in the day-time, and to remove the said *C. D.* and all such persons as shall be found therein, together with his and their goods out of such house and buildings, and to put *E. F.* the person lately appointed by the trustees to collect such tolls, into the possession thereof, for which this shall be your sufficient warrant.

Given under my hand and seal this day of

[*This form may be varied to suit the case of the widow or family of a deceased collector.*]

No. 16.—BOND from the Surveyor.

WE, *A. B.* surveyor of the turnpike roads, under an Act passed in the year of the reign of King George the "For [*state the principal part of the title of the Act*], and *C. D.* of are bound to *E. F.* of in the sum of pounds, to be paid to the said *E. F.* his executors administrators and assigns, for which payment we hereby bind ourselves severally, and each of our heirs executors and administrators.

Dated the day of

The condition of this bond is such, that if the said *A. B.* his executors or administrators shall duly and faithfully account for apply and pay all and every the sum and sums of money which hath come or shall come to his hands as surveyor of the turnpike road aforesaid, according to the direction and true intent and meaning of the said Act, and of the statute made in the third year of the reign of his Majesty King George the Fourth, "For regulating Turnpike Roads," then this bond to be void, or else to remain in full force.

[*The bond from the Treasurer will be in the same form.*]

No. 17.—SUMMONS for any person or persons to attend a Justice or Justices.

No. XV.
3 Geo. IV.
c. 126.

County of } TO A. B. of
to wit. }

WHEREAS complaint and information hath been made before me, C. D. one of his Majesty's justices of the peace for the said [county, &c.] by E. F. of That, &c. [*here state the nature and circumstances of the case, as far as it shall be necessary to show the offence, and to bring it within the authority of the justice, and in doing that, follow the words of the Act as near as may be*] These are therefore to require you personally to appear before me [or, the Justices to be assembled at their Special Sessions to be holden] at in the said [county, &c.] on the day of next at the hour of in the noon, to answer to the said complaint and information made by the said E. F. who is likewise directed to be then and there present, to make good the same. Herein fail not.

Given under my hand, this day of

No. 18.—INFORMATION.

County of } BE it remembered, That on the day
to wit. } of A. B. of in the
said county, informeth me, one of his Majes-
ty's justices of the peace for the said county, That
of in the said county [*here describe the offence, with the time and place, and follow the words of the Act, as near as may be*] contrary to the statute made in the third year of the reign of King George the Fourth, "For regulating Turnpike Roads," which hath imposed a forfeiture of for the said offence.
Taken the day of before
me, A. B.

No. 19.—FORM OF CONVICTION.

County of } BE it remembered, That on the
to wit. } day of in the
year of the reign of and in the year of our
Lord A. B. is convicted before me
one of his Majesty's justices of the peace for the said county, for [*here specify the offence, and when and where committed,*] contrary to the form of the statute made in the year of the reign of intituled [*here set forth the title of the Act,*] and I do hereby declare and adjudge that the said A. B. hath forfeited, for the said offence, the sum of [or, shall be committed to for the space of as the case may be.]
Given under my hand and seal the day and year first above written.
C. D.

No. 20.—WARRANT to distrain for Forfeiture.

To the [Constable], [Headborough], or [Tithingman] of
County of } WHEREAS A. B. of in the said
to wit. } county, is this day convicted before me, C. D. es-
quire, one of his Majesty's justices of the peace in and for the said county, upon the oath of G. H. a credible witness, for that the said A. B. hath [*here set forth the offence, describing it particularly in the words of the statute, as near as may be*] (contrary to the statute in that case made and provided,) by reason whereof the said A. B. hath forfeited, the sum of to be distributed as herein is mentioned, which he hath refused to pay: These are therefore in his Majesty's name to command you to levy the said sum of by distress of the goods and chattels of him the said A. B.; and if within the space of four days next after such distress by you taken, the said sum, together with the reasonable charges of taking and keeping the same, shall not be paid, that then you do sell the said goods and chattels so by you distrained, and out of the money arising by such sale, that you do pay one

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half of the said sum of *to E. F. of*
who informed me of the said offence, and the other half of the said sum
of *to I. K. the surveyor of the turnpike road*
[describing it] where the said offence [neglect or default] happened, to
be employed towards the repair of the said road, returning the overplus
on demand to him the said A. B. [the reasonable charges of taking
keeping and selling the said distress being first deducted]; and if suffi-
cient distress cannot be found of the goods and chattels of the said A. B.
whereon to levy the said sum of *that then you*
certify the same to me, together with this warrant.

Given under my hand and seal, the *day of*

C. D.

No. 21.—RETURN of the Constable, to be made upon the Warrant of
Distress, where there are no Effects.

I A. B. Constable of the [Parish, &c.] of *in*
the county of *do hereby certify and make oath,*
That by virtue of this warrant I have made diligent search for the goods
of the within-named *and that I can find no suffi-*
cient goods whereon to levy the within sum of *day of*
As witness my hand, the

A. B.

C. D.

Sworn before me, the day and year, &c.

No. 22.—COMMITMENT for Want of Distress.

County of *in the said*
to wit. } TO the [Constable] of *county and to the Keeper of the Common Gaol [or,*
the House of Correction] at
in the said county.

WHEREAS A. B. of *in the said county, was*
on the *day of* convicted before
me C. D. esquire, one of his Majesty's justices of the peace in and for
the said county, upon the oath of E. F. a credible witness, for that he
the said A. B. [here set forth the offence], contrary to the statute made in
the third year of the reign of his Majesty King George the Fourth,
"For regulating Turnpike Roads," by reason whereof the said A. B.
hath forfeited the sum of *And whereas on the*

day of in the year aforesaid,
I did issue my warrant to the [constable] of *to*
levy the said sum of *by distress and sale of the*
goods and chattels of him the said A. B. and to distribute the same ac-
cording to the directions of the said statute: And whereas it duly ap-
pears to me, upon the oath of the said [constable], that the said [con-
stable] hath used his best endeavours to levy the said sum on the goods
and chattels of the said A. B. as aforesaid; but that no sufficient distress
can be had whereon to levy the same: These are therefore to command
you, the said [constable] of *aforesaid, to appre-*
hend the said A. B. and him safely to convey to the common gaol [or
house of correction] at *in the said county, and there*
deliver him to the keeper thereof together with this precept: And I do
also command you the said keeper, to receive and keep in your custody
the said A. B. for the space of three months, unless the said sum shall
be sooner paid, pursuant to the said conviction and warrant; and for so
doing this shall be your sufficient warrant.

Given under my hand and seal, the *day of*
in the year of our Lord

C. D.

No. 23.—NOTICE of Appeal to the Quarter Sessions.

A. B. Take notice, that I intend to appeal to the next General Quarter
Sessions of the Peace to be holden for the [county, &c.] of
against an order [conviction, or other proceeding], (as the case may be)
[particularly specifying the purport of such Order, &c. and assigning the
grievance and cause of complaint.]

Dated the *day of*

C. D.

No. 24.—GENERAL STATEMENT of the Income and Expenditure of the [insert the Name of the particular Road] between the
of the Day of

Class XXII.]

Highways.

469 m

No. XV.
3 Geo. IV.
c. 126.

EXPENDITURE.				INCOME.			
£.	s.	d.		£.	s.	d.	
			To Surveyor's Account of Day Labour, between the Day of and the				By Balance in Treasurer's Hands
			Maintenance or Repair of Roads				By Amount of Rents received from the Lessees, or Tolls received from the Gatekeepers, between the Day of and the
			To Surveyor's Account of Team Labour, between the Day of and the				Day of as follows [here specify the respective Gates and the different Amounts received]
			To Surveyor's Account for Work executed by Contract, specifying the Amount done and the Rate of Contract paid				By Amount of Statute Labour between the Day of and the
			To Surveyor's Accounts for Repair, or Maintenance, or Building of Houses, Gates or Bridges				Day of as follows [here specify the Amount paid by each Parish, Hamlet, Township or Place.]
			To Surveyor's Account for Land purchased, or for Damages done				By Amount of Money borrowed on Security of Tolls [if any]
			To Surveyor's Account for Rent of Quarries				By incidental Receipts
			To Salaries and other Payments of Clerks, Surveyors, or other Officers				
			To Printing, Advertising and Stationery				
			To Interest of Debt				
			To incidental Charges				
							£.
GENERAL STATEMENT of DEBTS and CREDITS.							
£.	s.	d.		£.	s.	d.	
			An Account of the Amount of Debt bearing Interest				Arrears of Rents [or Tolls] due, not received as under :
			An Account of Interest due				Insert the Names of the Lessees [or of Gates,] and when due.
			An Account of floating Debt				Also insert any other Monies due to the Trust on any other Account.
							£.

No. XVII.

4 Geo. IV.
c. 95.

[No. XVI.] 4 George IV. c. 49.—An Act for regulating Turnpike Roads in that Part of Great Britain called Scotland.—[4th July 1823.]

[No. XVII.] 4 George IV. c. 95.—An Act to explain and amend an Act, passed in the Third Year of the Reign of His present Majesty, to amend the general Laws now in being for regulating Turnpike Roads in that Part of Great Britain called England.—[19th July 1823.]

3 G. 4. c. 126.

So much of recited Act as to Construction of the Tire of Wheels repealed.

Nails of the Tires of Wheels of Waggon, &c., to be so countersunk as not to project beyond one quarter of an Inch above Surface of Tires. Penalty on using them contrary hereto after Jan. 1, 1826.

So much of recited Act as prohibits the Use of Carriages with Wheels of less Breadth than Three Inches repealed.

So much of recited Act as relates to that when

WHEREAS an Act was passed in the third year of the reign of his present Majesty, intituled *An Act to amend the general Laws now in being for regulating Turnpike Roads in that Part of Great Britain called England*: And whereas the said Act requires to be explained amended and some enactments thereof to be repealed: May it therefore please your Majesty that it may be enacted; and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That so much of the said recited Act as enacts, that from and after the first day of *January* one thousand eight hundred and twenty-six, if the tire or tires of any wheel or wheels of any waggon cart or other such carriage, which should be used or drawn on any turnpike road, should not be so made or constructed as not to deviate more than half an inch from a flat or level surface in wheels exceeding six inches in breadth, or more than one quarter of an inch from a flat or level surface in wheels less than six inches in breadth; or in case the several nails of the tire or tires of every such wheel or wheels should not be so countersunk as not to project above one quarter of an inch above the surface of such tire or tires, then and in every such case the owner of every such waggon cart or other such carriage should, for every such offence forfeit and pay the sum of five pounds, and every driver thereof the sum of forty shillings, shall be and the same is hereby repealed.

II. And be it further enacted, That from and after the first day of *January* one thousand eight hundred and twenty-six, the several nails of the tire or tires of the wheels of every waggon, wain, cart, or other such carriage used or drawn on any turnpike road, shall be so countersunk as not to project beyond one quarter of an inch above any part of the surface of such tire or tires; and if any waggon cart or other such carriage shall, from and after the said first day of *January* one thousand eight hundred and twenty-six, be drawn or used on any turnpike road, with any wheel or wheels made constructed or being otherwise than as herein-before last described, the owner or owners thereof shall forfeit any sum not exceeding forty shillings, and every driver thereof any sum not exceeding twenty shillings, for each and every time that such waggon cart or other such carriage shall be used or drawn on any turnpike road.

III. And be it further enacted, That so much of the said recited Act as enacts, that from and after the first day of *January* one thousand eight hundred and twenty-six, no waggon or other such carriage should be allowed to travel or be used on any road with the fellyes of the wheels thereof of a less breadth than three inches; and from and after the day and year last mentioned, if any waggon, or other such carriage, having the fellyes of the wheels thereof of less breadth than three inches, should be used or drawn on any turnpike road, the owner of every such waggon or other such carriage so used should for every such offence forfeit and pay any sum not exceeding five pounds, and every driver thereof, not being the owner, any sum not exceeding forty shillings, shall be and the same is hereby repealed.

IV. And be it further enacted, That so much of the said recited Act as directs, that where any particular Act or Acts of Parliament then in force there is a Scale of Tolls such Scale should be continued, repealed,

for the making repairing or maintaining any turnpike road, should direct an higher rate of toll or tolls on any waggon, wain, cart, or other such carriage, having the fellies of the wheels thereof of less breadth than six inches, and such higher rate is more than the addition which is thereinbefore directed to be taken, such higher rate of tolls, in and by such Act or Acts imposed, should continue to be levied and collected on the said road to which the said Act or Acts should relate, in the proportions there fixed, shall, from and after the first day of *January* one thousand eight hundred and twenty-four, be and the same is hereby repealed.

V. And be it further enacted, That where the trustees or commissioners of any turnpike road shall not, previously to the passing of the said recited Act, have taken and collected on the road under their care and management the additional tolls on waggons, wains, carts, or carriages having the wheels thereof of less breadth or gauge than six inches from side to side at the bottom or sole thereof, and on the horses or beasts of draught drawing the same, directed to be taken and collected by an Act passed in the thirteenth year of the reign of his late Majesty King *George* the Third, intituled *An Act to explain, amend, and reduce into one Act of Parliament the general Laws now in being for regulating the Turnpike Roads in that Part of Great Britain called England, and for other Purposes*, and the particular or local Act or Acts of Parliament in execution whereof the said trustees or commissioners shall act, shall not have provided a scale of tolls applicable to the road under their care and management, such trustees or commissioners shall, from and after the first day of *January* one thousand eight hundred and twenty-four, continue to take collect and receive for every waggon, wain, cart, or other such carriage, having the fellies of the wheels thereof of less breadth or gauge than four and a half inches from side to side at the bottom or sole thereof, or for the horses or beasts of draught drawing the same, the same tolls as are in and by such particular or local Act or Acts payable in respect of such waggons, wains, carts, or other such carriages; and for every waggon, wain, cart, or other such carriage, having the fellies of the wheels thereof of the breadth or gauge of four and half inches and less than six inches at the bottoms or soles thereof, or for the horses or beasts of draught drawing the same, one sixth less than the tolls which are or shall be payable for the same; and for every waggon, wain, cart, or other such carriage, having the fellies of the wheels thereof of the breadth of six inches or upwards at the bottoms or soles thereof, or for the horse or horses drawing the same, one third less than the tolls or duties which are or shall be payable for the same by any Act or Acts of Parliament made for making repairing or maintaining any turnpike road.

VI. And be it further enacted, That where any particular Act or Acts of Parliament now in force, for the making repairing or maintaining any turnpike road, shall direct an higher or lower rate of toll or tolls to be collected and taken on any waggon, wain, cart, or other such carriage, or on the horse or horses drawing the same, regulated by or in respect of the greater or lesser breadth of the wheels of such waggon, wain, cart, or other such carriage, and where, in addition to the tolls received under such particular Act or Acts, the additional tolls in respect of the breadth of wheels authorized to be taken by the said Act passed in the thirteenth year of the reign of his late Majesty shall not have been collected and imposed, it shall and may be lawful for the trustees or commissioners acting in execution of any such particular Act or Acts of Parliament, from and after the first day of *January* one thousand eight hundred and twenty-four, to continue to collect the tolls directed to be taken under the powers and provisions of such Act or Acts of Parliament, in execution whereof they shall act, and they shall not impose the additional tolls authorized and required to be levied by the said recited Act on waggons, wains, carts, or other such carriages having the fellies of the wheels thereof of less breadth than six inches.

VII. Provided always, and be it further enacted, That in every case where the tolls authorized and empowered to be taken on any turnpike be leased or if leased by Agreement with the Lessee, they may be reduced before the

No. XVII.

4 Geo. IV.

c. 95.

Where 13 G. 3. c. 84. in respect of Tolls to be taken for Carriages with Wheels of certain Description has not been acted on, the Tolls shall be payable according to the Scale herein specified.

Where there is a Scale of Tolls adapted to the width of Wheels and additional Tolls under 13 G. 3. not collected, the Scale of Tolls imposed by the Local Act to continue.

In case the Tolls shall not
1st of Jan. 1824,

No. XVII.

4 Geo. IV.

c. 95.

road shall be in the hands of the trustees or commissioners of such road, and not leased or let to farm, but collected on their account, the trustees or commissioners of such road shall, in case such tolls were increased by the provisions of the said recited Act, within fourteen days after the passing of this Act reduce the said tolls, and fix the amount thereof according to the provisions of this Act; and in case the tolls collected and taken on any turnpike road shall be leased and let to farm, it shall and may be lawful for the trustees or commissioners of such road to compound and agree with the farmer or lessee of the said tolls for reducing the same, and fixing the amount thereof according to the provisions of this Act; and in each of the said cases the provisions of this Act with regard to tolls herein-before next mentioned shall then commence and take effect at the time of such reduction, and shall not be postponed to the said first day of *January* one thousand eight hundred and twenty-four.

Contractors of
Tolls may be
released from
their Contracts
so far as regards
Tolls or Penalties
for Over-
weight, on giv-
ing Notice to
the Treasurer
or Clerk of the
Trustees by
September.

VIII. And whereas many persons may at the time of passing of this Act be farmers or contractors for the tolls arising or payable on turnpike roads, and for tolls and penalties for overweight, and whose contracts will not expire until after the first day of *January* one thousand eight hundred and twenty-four; for remedy whereof, and for protection of such lessees or contractors, be it further enacted, That in case any lessee or lessees, farmer or farmers, contractor or contractors, for any toll or tolls arising or payable on any turnpike road, or for any tolls and penalties for overweight, payable to any trustees or commissioners appointed by virtue of any Act of Parliament for making repairing or amending turnpike roads, whose contract will not expire until after the first day of *January* one thousand eight hundred and twenty-four, shall by reason of this Act be desirous of being discharged from his her or their contract or contracts, so far as regards such tolls arising and payable on any turnpike road, or any tolls and penalties for overweight, and of such his her or their desire shall, on or before the first day of *September* one thousand eight hundred and twenty-three, give notice in writing to the treasurer or clerk of any such trustees or commissioners, then and in every such case all such farmers lessees or contractors shall, from and after the said first day of *January* one thousand eight hundred and twenty-four, be released and discharged from their respective contracts, so far as the same relate to such tolls arising and payable on any turnpike road, or to such tolls or penalties for overweight; and all and every such contracts shall thenceforth cease and be null and void as to the residue of the term or time then to come and unexpired therein, so far as such contracts relate to such tolls arising and payable on any turnpike road, or to such tolls and penalties for overweight; any thing in such leases or agreements to the contrary notwithstanding.

New Contracts
may be made
with Contract-
ors.

IX. Provided also, and be it enacted, That in case any such lessee or lessees, farmer or farmers, contractor or contractors, shall give such notice of determining his her or their contract, as herein-before mentioned, then and in every such case it shall be lawful for such trustees or commissioners, if they think fit, to make any new contract or contracts with such lessee or lessees, farmer or farmers, contractor or contractors, or to make any compensation to him her or them, in respect of such tolls payable on any turnpike road, or of the said tolls or penalties for overweight, or to cause the said tolls, and the tolls or penalties for overweight, to be re-let on a day and at a place to be by them appointed, of which one month's notice at least shall be given, and thereupon to proceed to re-let the same, and to re-let the same for the best price they may then be enabled to obtain for the same, without being compelled to put up the said tolls arising and payable on such road, or the said tolls or penalties for overweight, at the sum at which they last let, or to have any other meeting for the letting thereof; any law or custom to the contrary notwithstanding.

No Exemption
former Acts

X. And be it further enacted, That no person shall by virtue of the said recited Act, or this or any other Act or Acts of Parliament, have claimed, unless Carriages with 4½ Inch Felloes are used.

claim or take the benefit or advantage of any exemption from toll or part of tolls, or penalties for overweight, or to pay less toll for or in respect of any waggon, wain, cart, or other carriage, or the horses or beasts drawing the same, and carrying any particular kind of goods, than other carriages of the like nature carrying other goods ought to pay, unless such waggon, wain, cart, or other carriage, in respect of which the exemption shall be claimed, shall have the sole of the bottom of the fellyes of the wheels thereof of the breadth or gauge of four and half inches or upwards (other than and except carts and carriages employed in carrying corn or grain in the straw, hay, straw, fodder, dung, or lime for the improvement of land, or other manure, or any plough harrow or implements of husbandry only), but that the tolls imposed by any Act, together with the additional tolls required to be taken for or in respect of every such waggon, wain, cart, or other carriage, having the sole or bottom of the fellyes of the wheels thereof of less breadth or gauge than four and half inches as aforesaid, and for or in respect of horses or beasts of draught drawing the same, and the additional tolls or penalties for overweight (except as before excepted), shall be paid in the same manner, to all intents and purposes, as if no exemption or less toll had been enacted or allowed, and as fully as all other waggons, wains, carts, and carriages, and horses drawing the same, ought respectively to pay, which are not entitled to any exemption from toll in the whole or part, or to pay a less toll than other waggons, wains, carts, and carriages; any law or statute to the contrary notwithstanding.

XI. And be it further enacted, That so much of the said recited Act as enacts, that it shall and may be lawful for the trustees or commissioners of any turnpike roads from time to time, as they shall see convenient, to compound and agree, for any term not exceeding three years at any one time, with all or any of the inhabitants of the several parishes hamlets or places to or through which such road may lead or pass, for the passing of their horses cattle or carriages through all or any of the toll gates to be erected on such road, or on the sides thereof; which composition shall be paid yearly in advance, and in default thereof the composition or agreement with the person or persons making such default shall be thenceforth void; and all such composition money shall be paid and applied in such manner as the tolls are directed to be paid and applied: Provided always, that no such composition shall extend to the additional tolls for overweight herein-before directed to be taken, but all such additional tolls shall be demanded and received notwithstanding any composition for tolls; shall be and the same is hereby repealed.

So much of recited Act 3 G. 4. c. 126. for compounding and paying Composition in Advance, repealed.

XII. And be it enacted, That so much of the said recited Act as enacts, that it shall not be lawful for the trustees or commissioners of any turnpike road, their lessee or lessees collector or collectors or other officers, to make any composition for any additional tolls or duties for or in respect of the overweight, or in any other manner as to the weight which any waggon, wain, cart, or carriage shall carry or weigh, any law to the contrary thereof notwithstanding; but that every contract and agreement for such composition for overweight shall be null and void to all intents and purposes whatsoever; and every lessee collector or other officer entering into or agreeing to any such composition, and every person or persons with whom any such composition or agreement shall be made or entered into, shall, for every such composition or agreement, and for every abatement of toll for overweight in consequence thereof, respectively forfeit and pay the sum of fifty pounds to any person or persons suing for the same; shall be and the same is hereby repealed.

So much of recited Act prohibiting Composition for Overweight, repealed.

XIII. And be it further enacted, That the trustees and commissioners of every turnpike road may and they are hereby empowered from time to time, as they shall see convenient, to compound and agree, for any term not exceeding one year at any one time, with any person or persons, for the tolls payable for any horses, cattle, or beasts, or carriages, passing through any of the turnpikes or toll gates of the road under their care and management, and collected and taken under the authority of the particular

Composition may be made for Tolls for One Year.

No. XVII.

4 Geo. IV.

c. 95.

So much of re-
cited Act
3 G. 4. c. 126.
as to painting
Names on
Waggons, &c.,
repealed.

For Discovery
of Offenders,
Names of Own-
ers to be painted
on Waggons,
&c., in the
Manner herein
mentioned.

Penalty 5l.

Loaded Carts
used on Rail-
ways and Tram-
roads not to be
drawn on Turn-
pike Roads.

Penalty.

Exemptions
from Toll not
to extend to the
Tolls for Over-
weight, unless
such Tolls are
also specially
exempted.

Act or Acts in execution of which the trustees or commissioners making such composition shall act, or of the said recited Act or this Act.

XIV. And be it further enacted, That so much of the said recited Act of the third year aforesaid, as enacts, that the owner or owners of every waggon wain or cart, and also of every coach post chaise or other carriage, let either in the whole or in part to hire, shall paint or cause to be painted in a straight line upon some conspicuous part of his waggon wain or cart, or upon the shafts thereof, and upon the pannels of the doors of all such coaches post chaises or other carriages, before the same shall be used upon any turnpike road, his her or their christian and surname, and the place of his her or their abode, or the christian and surname and place of abode of the principal partner or owner thereof, in large legible letters, not less than half an inch in height, and continue the same thereupon so long as such waggon, cart, coach, post chaise, or other carriage shall be used upon any such turnpike road; and the owner of every common stage waggon or cart employed in travelling stages from town to town, shall, over and above his or her christian and surname, paint or cause to be painted on the part and in manner aforesaid the following words 'common stage waggon' (or 'cart,' as the case may be); and every owner or proprietor of any such waggon, cart, wain, post chaise, or other carriage as aforesaid, using or allowing the same to be used upon any turnpike road without the names and descriptions painted thereon respectively as aforesaid, and who shall paint or cause to be painted any false or fictitious name or place of abode on such waggon, wain, cart, coach, post chaise, or other carriage, shall forfeit and pay for every such offence a sum not exceeding five pounds; shall be and the same is hereby repealed.

XV. And for the better discovery of offenders, be it further enacted, That the owner or owners of every waggon, wain, or cart, or other such carriage, shall, from and after the first day of *October* one thousand eight hundred and twenty-three, paint or cause to be painted in one or more straight line or lines upon some conspicuous part of the right or off side of his her or their waggon, wain, or cart, or other such carriage, or upon the off side shafts thereof, before the same shall be used on any turnpike road, his her or their christian and surname, and the place of his her or their abode, or the christian and surname and place of abode of the principal partner or owner thereof, at full length, in large legible letters not less than one inch in height, and continue the same thereupon so long as such waggon, wain, cart, or other such carriage shall be used upon any turnpike road; and every owner and proprietor of any waggon, wain, or cart, or other carriage, who shall use or allow the same to be used on any turnpike road without the names and descriptions painted thereon as aforesaid, or who shall paint or cause to be painted any false or fictitious name or place of abode on such waggon, wain, or cart, or other carriage, shall forfeit and pay for every such offence a sum not exceeding five pounds.

XVI. And be it further enacted, That if any waggon or cart, built or constructed to be and usually used on any railway or tramroad, shall be drawn or pass loaded on any turnpike road, out of and away from such railway or tramroad, for the distance of more than one hundred yards, the owner or proprietor of every such waggon or cart shall forfeit and pay the sum of forty shillings, and the driver thereof, not being the owner, the sum of twenty shillings, for each and every time such waggon or cart shall be so drawn and pass.

XVII. And be it further enacted, That in case where any exemption from toll shall be claimed or allowed under the provisions of the said recited Act or this Act, or any other Act or Acts of Parliament for repairing and maintaining any turnpike road, such exemption shall not extend to or be allowed for the additional tolls imposed by the said recited Act, and directed to be taken for every hundred weight, of one hundred and twelve pounds to the hundred, which any waggon cart or other such carriage, together with the loading thereof, shall weigh at any weighing engine, over and above the weights in and by the said recited

Act allowed to each of them respectively, unless the waggon, wain, cart, or other such carriage, in respect of which the exemption shall be claimed, shall likewise be by the said recited Act, or this or some other Act or Acts, specially exempted from such additional tolls for overweight; but in all cases (where not specially exempted) the said additional tolls shall be paid, and only the original toll allowed.

XVIII. And whereas it is by the said recited act enacted, that nothing therein contained relating to the breadth of the wheels of carriages, or to the tolls payable thereon, should extend or be construed to extend to any chaise marine, coach, landau, berlin, barouche, sociable, chariot, calash, hearse, break, chaise, curricle, gig, chair, or taxed cart, market cart, or other cart for the conveyance of passengers or light goods or articles: And whereas the said provision has been found inconvenient; be it therefore enacted, That the said provision shall be, and the same is hereby repealed.

XIX. And be it further enacted, That nothing in the said recited Act or this Act contained relating to the breadth of the wheels of carriages, or to the regulations of weight, or to the tolls payable in respect of the wheels, or of the weight of carriages, shall extend or be construed to extend to any chaise marine, coach, landau, berlin, barouche, phaeton, sociable, chariot, calash, hearse, break, chaise, curricle, gig, chair, or taxed cart, or any cart not drawn by more than one horse or two oxen.

XX. And be it further enacted, That the trustees or commissioners of the several turnpike roads within ten miles of the cities of *London* and *Westminster*, and the borough of *Southwark*, may and they are hereby empowered, at any meeting or meetings to be held for the purpose (of which meeting or meetings, and the purposes thereof, fourteen days' notice shall be given,) to lower the several additional tolls by the said recited Act directed to be taken for overweight in such manner as to them shall seem fit and convenient, and from time to time to take such reduced tolls for overweight as shall be fixed and agreed on at such meeting or meetings.

XXI. And be it further enacted, That the regulations of weight in the said recited Act or this Act mentioned and provided, shall not extend to any waggon, wain, cart, or other carriage carrying only one block, plate, roll, or vessel of iron or other metal, or compounded of any two or more metals cast wrought or united in one piece.

XXII. And be it further enacted, That so much of the said recited Act as enacts, that nothing therein contained shall extend or be construed to extend so as to exempt any waggon cart or other carriage laden with dung compost or manure for manuring land, or any horse or other beast drawing the same, from any toll imposed in respect thereof by virtue of any local Act or Acts now passed, whereby such toll has been imposed for the maintenance of the roads therein respectively mentioned, shall be and the same is hereby repealed.

XXIII. And be it further enacted, That nothing in the said recited Act or this Act contained shall extend or be construed to extend to exempt any waggon, wain, cart, or other carriage laden with dung compost or manure for manuring land, or any horse or other beast drawing the same, from any toll imposed in respect thereof by any local Act or Acts for making repairing and maintaining any particular roads, where in such Act or Acts such dung compost or manure shall be specially made subject to toll throughout the whole of such roads, without any local parochial or partial exemption.

XXIV. And be it further enacted, That no toll shall be demanded or taken by virtue of the said recited Act or this Act, or any other Act or Acts for making or maintaining turnpike roads, for any horses or carriages attending or going to attend, or returning from having attended his Majesty, or any of the royal family; any thing in any Act or Acts to the contrary notwithstanding.

XXV. And be it further enacted, That so much of the said recited Act as directs that the surveyor of any turnpike road, when engaged in ex-

No. XVII.

4 Geo. IV.

c. 95.

Provision in recited Act as to Breadth of Wheels not extending to Coaches, &c., repealed.

Breadth of Wheels, or Regulations as to Weight, &c., not to extend to Coaches, &c.

Trustees or Commissioners within Ten Miles of London may reduce Tolls for Overweight.

Regulations of Weight not to extend to One Piece of Metal.

So much of recited Act 3 G. 4. c. 126. as exempts Carriages laden with Dung from Toll, repealed.

Carriages laden with Dung not to be exempted from Toll when charged by any Local Act.

Horses and Carriages belonging to the Royal Family exempted from Toll.

So much of 3 G. 4. c. 126

repealed, as exempts Surveyors of adjoining Roads from To'

No. XVII.
4 Geo. IV.
c. 95.

Repeal of
Clause in re-
cited Act as to
temporary Col-
lectors.

Trustees may
appoint tem-
porary Col-
lectors, &c., in
certain Cases.

Toll Collectors
taking more
Toll than allow-
ed, to be pro-
ceeded against
before a Justice,
and not by In-
dictment.

sioners shall appoint (which composition the said trustees or commis-
sioners are hereby empowered to make); or in case he or they shall be
committed for not delivering any account books papers or writings as
aforesaid, until he or they shall have delivered up such books papers and
writings as aforesaid, or made satisfaction in respect thereof to the said
trustees or commissioners; provided that no person who shall be so com-
mitted for want of sufficient distress shall be detained in prison by virtue
of this Act for a longer space of time than six calendar months.

XLVIII. And whereas it was by the said Act enacted, that it should
be lawful for any two or more trustees or commissioners of any turnpike
road, upon the death of any collector, to nominate and appoint some
other fit person until the next meeting of the trustees or commissioners
of such road; and that if any toll collector who should be discharged
from his office should refuse to deliver up the possession of the house
and appurtenances which he enjoyed in right of his appointment, or if
the wife or family of any such toll collector or deputy, who shall die as
aforesaid, should refuse to deliver up the possession of such building and
appurtenances, it should be lawful for any justice of the peace, by warrant
under his hand and seal, to order a constable or other peace officer to
enter such house and premises in the daytime, and to remove the persons
found therein, together with their goods, out of such house, and to put
the new appointed officer into the possession thereof: And whereas it is
expedient that the said provision should be repealed; be it therefore
enacted, That the said provision shall be and the same is hereby repealed.

XLIX. And be it further enacted, That upon the death, incapacity, re-
fusal, neglect, or absconding of any collector or receiver of tolls at any
turnpike or weighing machine upon any turnpike road, any two or more
trustees or commissioners, though not assembled at any meeting, by
writing under their respective hands, shall and may nominate and appoint
a proper person in his place, to continue until the then next meeting of
the trustees or commissioners of such road, in the stead of such collector
or receiver as shall so die, become incapable, refuse, neglect, or abscond;
which person so nominated and appointed shall have the like power and
authority, and be answerable and accountable in the same manner in all
respects, as the person who shall die, become incapable, refuse, neglect,
or abscond, would have had or been subject to if living; and if any col-
lector or receiver of tolls as aforesaid, who shall be discharged from his
office by the said trustees or commissioners, or the wife or widow, or any
of the children family or representatives of any collector or receiver who
shall die abscond refuse or neglect to perform his duty, or be discharged,
or any other person having the possession of any toll house or buildings
or weighing machine erected by virtue of any Act for repairing turnpike
roads, or the said recited Act, shall neglect or refuse to deliver up such
possession for the space of three days after demand thereof made, and
notice in writing given for that purpose, by any two or more of such trust-
ees or commissioners, or by their clerk or treasurer, then and in any of
the said cases it shall and may be lawful for any justice of the peace for
the county or place where such toll house or building or weighing ma-
chine shall be situate, by warrant under his hand and seal, to order any
constable or other peace officer for the same county or place, with such
assistance as shall be necessary, to enter such house or building or weigh-
ing machine in the day-time, and to remove the person who shall be
found therein, together with his her or their goods, out of the same, and
to put the said trustees or commissioners, or any of their officers, in the
possession thereof.

L. Provided always, and be it further enacted, That from and after the
passing of this Act, no person or persons who shall ask and take more toll
than he is authorized to take by this Act, or any Act now in force, or by
any Act hereafter to be made and passed, shall be prosecuted by indict-
ment for extortion, or otherwise, nor shall any other proceeding be
adopted against such person or persons for the offence aforesaid, other
than by prosecuting for the forfeiture and penalty before a justice of the
peace, as is herein or by the said recited Act directed.

LI. And whereas it was by the said Act enacted, that on every letting of any tolls, the trustees or commissioners should take of the renter thereof one two or more months' rent in advance; and that in every agreement to be entered into for the letting of any tolls, the rent payable for such tolls should be reserved and made payable monthly or otherwise, and the renter should produce two sufficient sureties for the punctual payment of the rent; and in every case where the terms of such agreement should not be fulfilled, and the rent not be paid when due, but should remain unpaid for three days after becoming due, then the trustees or commissioners making any such agreement should, if they thought fit, declare the agreement void, and re-enter and take possession of any toll gate or toll house, and the tolls there collected, and re-let the same, or appoint a collector to collect and receive the same, and to put out and remove the person or persons so failing in their agreement: And whereas it is expedient that the said provision should be repealed; be it therefore enacted, That the said provision shall be and the same is hereby repealed.

No. XVII.

4 Geo. IV.

c. 95.

Provision in recited Act for letting Tolls repealed.

LII. And be it further enacted, That it shall and may be lawful for the trustees or commissioners of any turnpike road, under and subject to the directions and provisions of the said recited Act and this Act, to let to farm, or agree to let to farm, all or any part of the tolls of the several gates erected upon their respective roads, and all or any of the said gates, either together and in one lot, or by parcels and in several lots; and that in case the said trustees or commissioners shall at any time let to farm the said tolls in parcels or lots, it shall be lawful for the said trustees or commissioners to put up each such parcel or lot at such sum as they shall think fit.

Tolls may be let in Lots.

LIII. And be it further enacted, That when the trustees or commissioners of any turnpike road shall put up the tolls to let to farm, the said trustees or commissioners may, if they think fit, appoint some person to bid for the same on their account, to the intent that such tolls may not be let for less than an adequate value.

Trustees may appoint some Person to bid at letting of Tolls.

LIV. And whereas in some situations a toll gate or bar, belonging to trustees or commissioners of one road, is placed so near to the gate or bar of the trustees or commissioners of another road, as to be inconvenient to the respective trusts, and to the public; be it therefore enacted, That it shall and may be lawful for the trustees or commissioners of any turnpike road, if they shall agree thereto, at any public meeting to be holden for that purpose, to take to farm the tolls payable at any toll gate or bar of any other road adjoining or near to the road under their care and management; and the trustees or commissioners so farming the tolls may collect and receive the same, or may reduce the said tolls so farmed, or may discontinue the same, as they shall see fit.

Tolls of another Trust adjoining may be farmed.

LV. And be it further enacted, That all sales and conveyances of any lands tenements or hereditaments, to be sold by the trustees or commissioners of any turnpike roads, shall be made at the expence of such trustees or commissioners, and shall be expressed in the following or some similar form of words, as the circumstances of the case may require; *videlicet*,

Trustees to pay Expence of Sales of Land, &c.

WE, _____ of the trustees or commissioners acting in execution of an Act passed [here insert the title of the Act appointing them] in consideration of the sum of _____ to us paid by [name of the purchaser] do hereby grant and release to the said [name of the purchaser], all [describing the premises to be conveyed], and all our right title and interest to and in the same, and every part thereof, to hold to the said [name of the purchaser], his heirs, executors, administrators, and assigns, for ever, by virtue and according to the true intent and meaning of an Act passed in the fourth year of the reign of King George the Fourth, intituled *An Act [here set forth the title of this Act.]* In witness whereof we have hereunto set our hands and seals, this _____ day of _____,

Form of Conveyances.

LVI. Provided always, and be it further enacted, That it shall and may be lawful for the trustees or commissioners of any turnpike road, to purchase for Repository of Materials within a certain Limit.

Ground may be purchased for Repository of Materials within a certain Limit.

No. XVII.

4 Geo. IV.

c. 95.

Oath.

commissioners (who is and are hereby empowered to administer the same) the oath or affirmation following; (that is to say,)

‘ I A. B. do swear, [or, being one of the people called *Quakers*, do solemnly affirm,] That I will truly and impartially, according to the best of my judgment, execute and perform the several powers authorities and trusts reposed in me as a trustee [or commissioner] by virtue of an Act passed in the third year of the reign of his Majesty King George the Fourth, intituled *An Act to amend the general Laws now in being for regulating Turnpike Roads in that part of Great Britain called England*; and also an Act passed in the fourth year of the reign of his said Majesty, intituled [*here set forth the title of this Act*]; and also an Act passed in the year of the reign of his Majesty intituled [*here set forth the title of the Act under which such trustee or commissioner shall claim to act.*] So help me GOD.’

[Or, being a Quaker, omit the words ‘So help me God.’]

Penalty 50*l*.

And if any such person shall act (except as aforesaid) before he shall have taken and subscribed the said oath or affirmation, every such person shall for every such offence forfeit and pay the sum of fifty pounds, with full costs of suit, to any person or persons who shall inform or sue for the same in any of his Majesty’s Courts of Record at Westminster, by action of debt or on the case, bill, suit, or information, wherein no essoign protection or wager of law, or more than one imparlance, shall be allowed: Provided always, that no Act or proceeding touching the execution of the said Act of the third year of the reign of his present Majesty, or this Act, or any Act for making or maintaining any turnpike road, which shall be done or performed by any such person who shall have omitted or neglected to take and subscribe the said oath or affirmation by this Act prescribed, shall be thereby impeached or rendered nugatory; but all such proceedings shall be as valid and effectual as if such person had taken such oath or affirmation previously to his having acted as such trustee or commissioner as aforesaid.

Proceedings valid, though Oath omitted to be taken under recited Act.

Quakers making Affirmation may act as Trustees.

XXXIII. And be it further enacted, That if any person being a Quaker shall have been or shall hereafter be appointed or elected, by or under any Act or Acts of Parliament for making repairing or maintaining any turnpike road, a trustee or commissioner of such road, and shall be in other respects qualified according to the provisions of the said recited Act, it shall and may be lawful for such person, on taking and subscribing the affirmations in the said recited Act and this Act contained, to act as a trustee or commissioner in execution of the Act or Acts by or under which such person shall be appointed or elected, without being subject or liable to any penalty or forfeiture by such Act or Acts imposed for acting as a trustee or commissioner not having taken and subscribed the oaths therein contained.

Not to extend to Magistrates taking Oath of Qualification as Trustees.

XXXIV. Provided always, and be it enacted, That nothing in the said recited Act made in the third year of the reign of his present Majesty, or in this or any other Act contained, shall extend or be construed to extend so as to require any justice of the peace acting for any county to take or subscribe any oath of qualification before he shall act as trustee in the execution of any Act or Acts for making repairing or maintaining any turnpike road.

Explaining Trustees’ Qualification.

13 G. 3. c. 84.

XXXV. And be it further declared and enacted, That where any person shall, previously to the first day of January one thousand eight hundred and twenty-three, have been duly qualified according to the provisions of, and taken the oath prescribed in that behalf by an Act passed in the thirteenth year of the reign of his late Majesty King George the Third, intituled *An Act to explain amend and reduce into one Act of Parliament the general Laws now in being for regulating Turnpike Roads in that Part of Great Britain called England, or for other Purposes*; or have been duly qualified according to the provisions of, and taken the oath prescribed by, any other Act or Acts of Parliament for making maintaining or repairing any particular turnpike road, previously to the said first day of January, and shall have been then acting as a trustee or commissioner in the execution of such Act or Acts, it shall and may be lawful for such person to

continue to act as a trustee or commissioner under such Act or Acts, without requalifying, or taking the oath prescribed in and by the said recited Act of the third year of his present Majesty's reign, and although such person may not be possessed of freehold or copyhold lands tenements or hereditaments, or be heir apparent to any person possessing the same, to the amount required by the said recited Act.

XXXVI. Provided always, and be it enacted, That if any trustee or commissioner who shall have been acting as such previously to the said first day of *January* one thousand eight hundred and twenty-three, shall have lost or parted with subsequently thereto, or shall hereafter lose or part with, by sale, assignment, bankruptcy, insolvency or otherwise, the qualification in respect of which he acted as a trustee or commissioner, and shall not be possessed of the qualification required by the said Act of the thirteenth year of the reign of his late Majesty, or by the Act or Acts in the execution of which such trustee or commissioner shall have acted, every such trustee or commissioner shall therefrom become disqualified and be incapable of any longer acting as a trustee or commissioner; and if any such trustee or commissioner so becoming disqualified shall presume to act in execution of the Act or Acts under which he previously acted, he shall for every such offence incur and be liable to the penalties and forfeitures imposed by the said recited Act of the third year aforesaid, on persons acting as trustees or commissioners not being duly qualified, to be sued for and recovered under the powers and provisions of the said Act.

Trustee losing his Qualification to become incapable of acting.

XXXVII. And whereas in and by the said recited Act it is amongst other things provided, that no trustee or commissioner shall have any share or interest in, or be in any manner directly or indirectly concerned in any contract or bargain for making or repairing, or in any way relating to the road for which he shall act, or for building or repairing any toll house or toll gate or weighing engine thereon, or for supplying any materials for the use thereof, nor shall let out for hire any waggon, wain, cart, or other carriage, or any horse cattle or team, for the use of any turnpike road for which he shall act as trustee or commissioner, nor by himself, or by any other person for or on his account, directly or indirectly, receive any sum or sums of money to his use or benefit out of the tolls collected on the road for which he shall act during the time he shall be acting as a trustee or commissioner of such road; and in and by the said recited Act any trustee or commissioner offending in any of the cases aforesaid is thereby made liable to pay the penalty of one hundred pounds; be it further enacted and declared, That no person or persons, being a trustee or commissioner or trustees or commissioners of any turnpike road, shall be liable to and forfeit the said penalty of one hundred pounds, or any other penalty or forfeiture, for or by reason of his or their being only a proprietor or proprietors or holder or holders of any share or shares in any canal or railway company which shall contract with the trustees or commissioners of the road for which such person or persons shall act as a trustee or commissioner, or trustees or commissioners, for the carriage or conveyance of any materials for the repair of such road.

Trustees having Shares in Canal Companies, &c., which shall contract for Conveyance of Materials on Roads, not liable to Penalty on account of such Contract.

XXXVIII. And whereas it was by the said Act enacted, That the trustees or commissioners for executing any Act for repairing turnpike roads should from time to time meet at such time and place as to them should seem convenient, and adjourn themselves to meet at any place and at such time as the said trustees or commissioners should appoint; and at all their meetings the trustees or commissioners should pay and defray their own expences, except any sum not exceeding ten shillings *per diem* for the use of the room wherein they should meet; and all orders and determinations of the trustees or commissioners in the execution of any such Act should be made at meetings to be held in pursuance thereof, and not otherwise; and that no order or determination should be made, unless the major part of the trustees or commissioners present should concur therein; and that all the powers and authorities thereby in them vested should be done and exercised by the major part of the trustees or commissioners who should

Clause of recited Act 3 G. 4. c. 126, as to Meetings of Trustees repealed.

No. XVII.
4 Geo. IV.
c. 95.

Regulations as
to Meetings of
Trustees.

be present at meetings to be held by virtue of any such Act; and that a chairman should in the first place be appointed at every meeting, who should have the decisive or casting vote; and that no order or determination at any meeting of the said trustees or commissioners should be revoked or altered at any subsequent meeting, unless notice of the intention to make such revocation or alteration should have been given at a previous meeting, by notice on all the turnpike gates then erected upon such road, twenty-one days at least before such meeting, nor unless such revocation or alteration should be agreed to be made by seven trustees or commissioners at the least: And whereas the said provision has been found inconvenient; be it therefore enacted, That the said provision shall be and the same is hereby repealed.

XXXIX. And be it further enacted, That the trustees or commissioners for executing any Act for making or maintaining any turnpike roads shall and may from time to time meet at such time and place on or near their respective roads as to them shall seem convenient, and may adjourn themselves to meet at any place or places, and at such time or times, as the said trustees or commissioners, or the major part of them present at any meeting, shall appoint; and at all their several meetings the trustees or commissioners shall pay and defray their own expences, except any sum not exceeding ten shillings *per diem* for the use of the room wherein they shall meet; and all orders and determinations of the trustees or commissioners in the execution of any such Act shall be made at meetings to be held in pursuance thereof, or of the said recited Act and this Act, and not otherwise (except in the cases otherwise particularly provided for by the said recited Act or any such Act for making or repairing turnpike roads); and that no order or determination shall be made unless the major part of the trustees or commissioners present shall concur therein; and that all Acts orders and proceedings relating to any such Act or the said recited Act and this Act, which are directed to be had, made, done, or exercised by or before the said trustees or commissioners, and all the powers and authorities vested in them generally, shall and may be had, made, done, and exercised by the major part of the trustees or commissioners who shall be present at the respective meetings to be held by virtue of any such Act or this Act, the whole number present not being less than three (except in such cases where any other number is by any local Act, or the said recited Act or this Act, named for any particular or special purpose); and that all Acts orders or proceedings had made or done by or before such three trustees or commissioners, shall have the same force and effect, and be binding and conclusive on all persons, and to all intents and purposes whatsoever, as fully and effectually as if the same were had, made, done, or executed by or before all the said trustees or commissioners; and that a chairman shall and may in the first place be appointed at every meeting to be held by virtue and for the purposes of any such local Act, or the said recited Act and this Act, who, in case of an equal number of votes (including the chairman's vote) shall have the casting or decisive vote; and that no order or determination at any meeting of the said trustees or commissioners, once made agreed upon or entered into shall be revoked or altered at any subsequent meeting unless notice of the intention to make such revocation or alteration shall have been given by three or more trustees or commissioners, by writing under their hands, to the clerk to the said trustees or commissioners, at a previous meeting holden for the same road, and entered in the book of proceedings of such meeting, and unless notice signed by any two or more trustees or commissioners shall have been affixed on all the turnpike gates then erected upon such road, twenty-one days at least before such meeting, nor unless such revocation or alteration shall be agreed to be made by a greater number of trustees or commissioners than concurred in the making of any such order or determination: Provided always, that nothing herein contained, prohibiting or restraining trustees from expending more than ten shillings *per diem* for the use of the room wherein they shall meet, shall extend to the trustees or commissioners of any road within five miles of the Royal

Exchange in London; but such last-mentioned trustees or commissioners may expend any sum not exceeding twenty shillings for the use of such room.

XL. And whereas it is by the said Act enacted, that if at any time it should be thought necessary that the trustees or commissioners of such road should meet before the time to which any meeting may be adjourned, it should be lawful for any two or more of such trustees or commissioners (or for the clerk to the said trustees or commissioners, by an order in writing, signed by any two or more of them) to give notice of such earlier meeting in the manner before directed; and all the orders and determinations of the trustees or commissioners at all such meetings should be as valid as if the same had been done at any other meeting of trustees or commissioners: And whereas the said provision has been found inconvenient; be it therefore enacted, That the said provision shall be and the same is hereby repealed.

XLI. And be it further enacted, That if at any time it shall be thought necessary, for the better execution of any Act of Parliament for making or maintaining any turnpike road, that the trustees or commissioners of such road should meet before the time to which any meeting may be adjourned, it shall and may be lawful for any two or more of such trustees or commissioners, (or for the clerk to the said trustees or commissioners, by an order in writing, signed by any two or more of them) to give notice of such earlier meeting by advertisement in some newspaper circulated in the neighbourhood of such road, and affixed on all the turnpike gates then standing on such road, in which notice shall be expressed the time place and purpose of such earlier meeting (such time not being less than fourteen days after publication of the said notice); and all the orders and determinations of the trustees or commissioners at all such meetings shall be as valid as if the same had been done at any other meeting of trustees or commissioners held by virtue of the said recited Act or this Act, or the Act under and by virtue of which they shall act as trustees or commissioners: Provided always, that no other business than what shall be specified in such notice shall be transacted at any such meeting.

XLII. And whereas in and by the said recited Act, all trustees and commissioners of every turnpike road or roads are required to hold a general meeting of the trust for which they shall respectively act, on a day to be by them, or any three or more of them appointed, in the months of *April September and October*; be it further enacted, That wherein and by any Act of Parliament a general annual meeting of the trustees acting in execution of such Act shall be appointed to be held at any other time of the year than in the said months of *April September or October*, and the said trustees shall have held such meetings under the authority of such Act, it shall and may be lawful for such trustees to continue to hold the said general annual meetings at the time mentioned and directed in the Act, under and by virtue of which they shall be appointed, instead of in the said months of *April September or October*; any thing in the said recited Act contained to the contrary notwithstanding.

XLIII. And be it further enacted, That the trustees or commissioners for making or maintaining any turnpike road may and they are hereby empowered, by writing under their hands, to appoint such collector or collectors of the tolls arising on such road, and clerk or clerks, treasurer or treasurers, surveyor or surveyors of the said road, and such other officers as the said trustees or commissioners shall think necessary; and such collectors, clerks, treasurers, surveyors, and other officers, or any of them, from time to time remove, and on removal death or resignation of any such collectors, clerks, treasurers, surveyors, or other officers, to appoint others in their stead; and may and are hereby authorized and empowered, out of any of the monies arising on such turnpike road, to allow and pay to the several collectors, clerks, treasurers, surveyors, and other officers, and to such other person or persons as shall be assisting them or any of them in or about the execution of the Act for making or maintaining such road, and the said recited Act and this Act, such salaries

No. XVII.
4 Geo. IV.
c. 95.

Clause in recited Act as to Meetings of Trustees to be held on Emergencies, repealed.


How Meetings on Emergencies shall be held.

Where a Local Act has fixed a different Time for the annual Meeting than that mentioned in recited Act, it may be held on that Day.

Appointing Officers, Salaries, &c.

No. XVII.

4 Geo. IV:
c. 95:


Surveyor and
Clerk not to be
the same Per-
son.

rewards and allowances for their attendance, care, labour, and services, as such trustees or commissioners shall deem reasonable.

XLIV. Provided always, and be it further enacted, That it shall not be lawful for the trustees or commissioners acting under any Act for making or maintaining any turnpike road to continue or appoint the person or persons who has been or may be appointed their clerk or clerks in the execution of such Act, or the partner of any such clerks, or the clerk or clerks or other person or persons in the service or employ of any such clerk or clerks, the surveyor or surveyors for the purposes of such Act, or to continue or appoint any person or persons who has been or may be appointed surveyor or surveyors, or the partner or partners of any such surveyor or surveyors, the clerk or clerks to the said trustees or commissioners; and if any person shall accept both the offices of clerk and surveyor for the purposes of such Act, or if any person, being the partner of any such clerk or clerks, or the clerk or clerks or other person or persons in the service or employ of any such clerk or clerks, shall accept the office of surveyor, or being the partner of any such surveyor or surveyors shall accept the office of clerk in the execution of such Act, and if any such surveyor shall hold or accept any place or office of profit or trust under the said trustees, other than that of surveyor, every such person so offending shall for every such offence forfeit and pay the sum of fifty pounds to any person who shall sue for the same, to be recovered, with full costs of suit, in any of his Majesty's Courts of Record at *Westminster*, by action of debt or on the case, or by bill suit or information, wherein no essoign protection or wager of law, nor more than one imparlance shall be allowed.

Surveyor not to
be concerned in
Contracts, or
sell Materials.

XLV. And be it further enacted, That if the surveyor of any turnpike road shall have any part share or interest in any contract or bargain for work, materials, tools, or other things, to be done or provided upon for or on account of any road or bridge, or any part thereof, under his care and management, or shall upon his own account, directly or indirectly, let to hire any team, or sell or dispose of any timber stone or other materials, to be used or employed in making or repairing any such road or bridge, he shall forfeit for every such offence the sum of fifty pounds.

Repeal of
Clause in re-
cited Act as to
Officers ac-
counting.

XLVI. And whereas it was by the said Act enacted, That all such officers as should be appointed by any trustees or commissioners of any turnpike road should, as often as required by the trustees or commissioners, render a true exact and perfect account in writing of all monies which they should respectively have received and disbursed by reason of their respective offices; and in case any money so received by any such officer should remain in his hands, the same should be paid to the trustees or commissioners; and if any such officer should refuse or neglect to render such account, or produce to the vouchers, or should refuse or neglect to render and give up all books, papers, writings, tools, matters, and things in his custody or power relating to the road for which he should act, it should be lawful for any justice of the peace, upon application made to him for that purpose, to make inquiry concerning any such default as aforesaid in a summary way, and by warrant under his hand and seal to cause such money as should appear to him to be due, to be levied by distress and sale of the goods and chattels of such officer; or if sufficient distress could not be found, or if it should appear to any such justice that such officer should have refused or neglected to give such account, or to deliver up all books, papers, writings, tools, matters, and things in his custody or power relating to the execution of his office, such justice should commit him to the house of correction or common gaol, there to remain without bail or mainprize until he should make and give a true and perfect account, and should have paid the money (if any) remaining in his hands, according to the direction of the trustees or commissioners, or should have compounded with the said trustees or commissioners for such money, or until he should deliver up such books, papers, and writings, tools, matters, and things as aforesaid, or have

given satisfaction to the trustees or commissioners concerning the same : And whereas the said provision has been found inconvenient ; be it enacted, That the said provision shall be and the same is hereby repealed.

XLVII. And be it further enacted, That all such officers as shall have been or shall be appointed by any trustees or commissioners of any turnpike road, shall from time to time, when thereunto required by the trustees or commissioners, deliver to such trustees or commissioners, or to such person or persons as they shall for that purpose appoint, true exact and perfect accounts in writing, under their respective hands, of all monies which they and every of them respectively shall have received to that time, by virtue of any Act, and how much thereof hath been paid and disbursed, and for what purposes, together with the proper vouchers for such payments, and shall pay all such monies as shall remain in their or any of their hands to the said trustees or commissioners, or to such person or persons as they shall appoint to receive the same, and not otherwise, within such time as such trustees or commissioners shall limit or appoint ; and if any such officer or person shall refuse or neglect to produce or deliver up such accounts, and the vouchers relating to the same, or shall refuse or neglect to pay the money due on such account within the time or in manner aforesaid, or if any such officer or person shall refuse or neglect to deliver up to the said trustees or commissioners, or to such person or persons as they shall appoint, within ten days after being thereunto required by the said trustees or commissioners, all the books papers or writings in his custody or power relating to the execution of any such Act, then and in every or any of the said cases it shall be lawful for any one justice of the peace for the county division or riding in which such road or any part thereof shall be situate, upon complaint made to him by or on behalf of the said trustees or commissioners, and such justice is hereby required, by warrant under his hand and seal, to summon such officer or officers, person or persons, to appear before him, and upon his lier or their appearing, or not being to be found, to hear and determine the matter of such complaint in a summary way, and to settle the said account or accounts, if produced ; and if upon confession of the officer or officers, person or persons, against whom any such complaint shall be made, or by the oath or oaths of any witness or witnesses (which oath such justice is hereby empowered and required to administer without fee or reward), or upon inspection of the said accounts, if produced, it shall appear to such justice that any of the money which shall have been collected or received shall be in the hands of such officer or officers, person or persons, such justice may and he is hereby authorized and required, on non-payment thereof, by a warrant or warrants under his hand and seal, to cause such money to be levied by distress and sale of the goods and chattels of such officer or officers, person or persons respectively ; and if no goods and chattels can be found sufficient to answer and satisfy the said money and the charges of distraining and selling the same, or if such officer or officers, or other person or persons, shall not appear before the said justice at the time and place by him appointed for that purpose, unless for some sufficient reason, or if appearing, shall refuse or neglect to give and deliver to such justice an account or accounts of all receipts and payments as aforesaid, or to produce and deliver up to the said justice the several vouchers and receipts relating to such accounts respectively, or the books, accounts, papers, and writings in his her or their custody or power relating to the execution of any Act for making or repairing turnpike roads, or the said recited Act or this Act ; then and in either of the cases aforesaid, such justice may and he is hereby authorized and required, by a warrant under his hand and seal, to commit such officer or officers, or person or persons, to the common gaol or house of correction of the county in which such road shall be situate, there to remain without bail or mainprize, in case he or they shall be committed for non-payment of any money received by him or them, or in his or their hands, until he shall have accounted for and paid the full amount thereof, or compounded with the trustees or commissioners, and paid such composition in such manner as the said trustees or commis-

No. XVII.

4 Geo. IV.
c. 95.

Officers of
Turnpike Roads
to account
when required
by Trustees.

Proceedings on
Neglect of Offi-
cers to account.

No. XVII.
4 Geo. IV.
c. 95.

Repeal of
Clause in re-
cited Act as to
temporary Col-
lectors.

Trustees may
appoint tem-
porary Col-
lectors, &c., in
certain Cases.

Toll Collectors
taking more
Toll than allow-
ed, to be pro-
ceeded against
before a Justice,
and not by In-
dictment.

sioners shall appoint (which composition the said trustees or commis-
sioners are hereby empowered to make); or in case he or they shall be
committed for not delivering any account books papers or writings as
aforesaid, until he or they shall have delivered up such books papers and
writings as aforesaid, or made satisfaction in respect thereof to the said
trustees or commissioners; provided that no person who shall be so com-
mitted for want of sufficient distress shall be detained in prison by virtue
of this Act for a longer space of time than six calendar months.

XLVIII. And whereas it was by the said Act enacted, that it should
be lawful for any two or more trustees or commissioners of any turnpike
road, upon the death of any collector, to nominate and appoint some
other fit person until the next meeting of the trustees or commissioners
of such road; and that if any toll collector who should be discharged
from his office should refuse to deliver up the possession of the house
and appurtenances which he enjoyed in right of his appointment, or if
the wife or family of any such toll collector or deputy, who shall die as
aforesaid, should refuse to deliver up the possession of such building and
appurtenances, it should be lawful for any justice of the peace, by warrant
under his hand and seal, to order a constable or other peace officer to
enter such house and premises in the daytime, and to remove the persons
found therein, together with their goods, out of such house, and to put
the new appointed officer into the possession thereof: And whereas it is
expedient that the said provision should be repealed: be it therefore
enacted, That the said provision shall be and the same is hereby repealed.

XLIX. And be it further enacted, That upon the death, incapacity, re-
fusal, neglect, or absconding of any collector or receiver of tolls at any
turnpike or weighing machine upon any turnpike road, any two or more
trustees or commissioners, though not assembled at any meeting, by
writing under their respective hands, shall and may nominate and appoint
a proper person in his place, to continue until the then next meeting of
the trustees or commissioners of such road, in the stead of such collector
or receiver as shall so die, become incapable, refuse, neglect, or abscond;
which person so nominated and appointed shall have the like power and
authority, and be answerable and accountable in the same manner in all
respects, as the person who shall die, become incapable, refuse, neglect,
or abscond, would have had or been subject to if living; and if any col-
lector or receiver of tolls as aforesaid, who shall be discharged from his
office by the said trustees or commissioners, or the wife or widow, or any
of the children family or representatives of any collector or receiver who
shall die abscond refuse or neglect to perform his duty, or be discharged,
or any other person having the possession of any toll house or buildings
or weighing machine erected by virtue of any Act for repairing turnpike
roads, or the said recited Act, shall neglect or refuse to deliver up such
possession for the space of three days after demand thereof made, and
notice in writing given for that purpose, by any two or more of such trust-
ees or commissioners, or by their clerk or treasurer, then and in any of
the said cases it shall and may be lawful for any justice of the peace for
the county or place where such toll house or building or weighing ma-
chine shall be situate, by warrant under his hand and seal, to order any
constable or other peace officer for the same county or place, with such
assistance as shall be necessary, to enter such house or building or weigh-
ing machine in the day-time, and to remove the person who shall be
found therein, together with his her or their goods, out of the same, and
to put the said trustees or commissioners, or any of their officers, in the
possession thereof.

L. Provided always, and be it further enacted, That from and after the
passing of this Act, no person or persons who shall ask and take more toll
than he is authorized to take, by this Act, or any Act now in force, or by
any Act hereafter to be made and passed, shall be prosecuted by indict-
ment for extortion, or otherwise, nor shall any other proceeding be
adopted against such person or persons for the offence aforesaid, other
than by prosecuting for the forfeiture and penalty before a justice of the
peace, as is herein or by the said recited Act directed.

LI. And whereas it was by the said Act enacted, that on every letting of any tolls, the trustees or commissioners should take of the renter thereof one two or more months' rent in advance; and that in every agreement to be entered into for the letting of any tolls, the rent payable for such tolls should be reserved and made payable monthly or otherwise, and the renter should produce two sufficient sureties for the punctual payment of the rent; and in every case where the terms of such agreement should not be fulfilled, and the rent not be paid when due, but should remain unpaid for three days after becoming due, then the trustees or commissioners making any such agreement should, if they thought fit, declare the agreement void, and re-enter and take possession of any toll gate or toll house, and the tolls there collected, and re-let the same, or appoint a collector to collect and receive the same, and to put out and remove the person or persons so failing in their agreement: And whereas it is expedient that the said provision should be repealed; be it therefore enacted, That the said provision shall be and the same is hereby repealed.

No. XVII.
4 Geo. IV.
c. 95.

Provision in recited Act for letting Tolls repealed.

LII. And be it further enacted, That it shall and may be lawful for the trustees or commissioners of any turnpike road, under and subject to the directions and provisions of the said recited Act and this Act, to let to farm, or agree to let to farm, all or any part of the tolls of the several gates erected upon their respective roads, and all or any of the said gates, either together and in one lot, or by parcels and in several lots; and that in case the said trustees or commissioners shall at any time let to farm the said tolls in parcels or lots, it shall be lawful for the said trustees or commissioners to put up each such parcel or lot at such sum as they shall think fit.

Tolls may be let in Lots.

LIII. And be it further enacted, That when the trustees or commissioners of any turnpike road shall put up the tolls to let to farm, the said trustees or commissioners may, if they think fit, appoint some person to bid for the same on their account, to the intent that such tolls may not be let for less than an adequate value.

Trustees may appoint some Person to bid at letting of Tolls.

LIV. And whereas in some situations a toll gate or bar, belonging to trustees or commissioners of one road, is placed so near to the gate or bar of the trustees or commissioners of another road, as to be inconvenient to the respective trusts, and to the public; be it therefore enacted, That it shall and may be lawful for the trustees or commissioners of any turnpike road, if they shall agree thereto, at any public meeting to be holden for that purpose, to take to farm the tolls payable at any toll gate or bar of any other road adjoining or near to the road under their care and management; and the trustees or commissioners so farming the tolls may collect and receive the same, or may reduce the said tolls so farmed, or may discontinue the same, as they shall see fit.

Tolls of another Trust adjoining may be farmed.

LV. And be it further enacted, That all sales and conveyances of any lands tenements or hereditaments, to be sold by the trustees or commissioners of any turnpike roads, shall be made at the expence of such trustees or commissioners, and shall be expressed in the following or some similar form of words, as the circumstances of the case may require; *videlicet*,

Trustees to pay Expence of Sales of Land, &c.

WE, _____ of the trustees or commissioners acting in execution of an Act passed [here insert the title of the Act appointing them] in consideration of the sum of _____ to us paid by [name of the purchaser] do hereby grant and release to the said [name of the purchaser], all [describing the premises to be conveyed], and all our right title and interest to and in the same, and every part thereof, to hold to the said [name of the purchaser], his heirs, executors, administrators, and assigns, for ever, by virtue and according to the true intent and meaning of an Act passed in the fourth year of the reign of King George the Fourth, intituled *An Act [here set forth the title of this Act.]* In witness whereof we have hereunto set our hands and seals, this _____ day of _____.

Form of Conveyances.

LVI. Provided always, and be it further enacted, That it shall and may be lawful for the trustees or commissioners of any turnpike road, to purchase for Repository of Materials within a certain Limit

Ground may be purchased for Repository of Materials within a certain Limit

No. XVII.

4 Geo. IV.

c. 95.

Where Toll Houses are not wanted, they shall be pulled down and the Materials sold.

Lessees, or Persons appointed by them, may occupy Toll Houses.

Enabling the Trustees to take Possession of the Toll House, &c., when let to farm, or held by the Collectors for the Trustees, in default of Performance of Conditions, &c.

be lawful for the trustees or commissioners of any turnpike road, and they are hereby empowered, to purchase or rent, with the consent of the owner or proprietor thereof, any piece or pieces of ground, within ten miles of the *Royal Exchange*, as a repository for materials, such piece or pieces of ground to be of such extent as they may think proper, so as the same shall not exceed in the whole half an acre.

LVII. And be it further enacted, That where any toll house or toll houses standing on or adjoining any turnpike road, and which shall have been erected by or vested in the trustees or commissioners of such road, shall become useless and be no longer required for the purposes of such road, it shall not be lawful for the trustees or commissioners of such road to sell or dispose of such toll house or toll houses, but in every such case the trustees or commissioners of the road on which such toll house or toll houses no longer required shall stand, shall cause such toll house or toll houses, with the outhouses attached or belonging thereto, to be pulled down, and the materials thereof to be sold or removed, and the scite of such toll house or toll houses so pulled down, together with the gardens and appurtenances thereunto belonging, may then be sold by the said trustees or commissioners, in the same manner as and under the regulations in the said recited Act and this Act contained, with respect to any land or ground not wanted for the purposes of the road.

LVIII. And be it further enacted, That during such time as the tolls arising on any turnpike road, or any part or parts thereof, shall be leased demised or let to any person or persons whomsoever, it shall and may be lawful to and for the lessee or lessees, or farmer or farmers thereof, or such other person or persons as he or they shall authorize or appoint, to occupy and enjoy the toll house or toll houses at which the said tolls so let are to be collected and to arise, with all the appurtenances and conveniences to the same toll house or toll houses belonging, for the purpose of collecting such tolls, during so long time only as such lessee or lessees, farmer or farmers, shall duly and regularly pay his her or their rent or rents, and perform the covenants agreements and conditions of such lease demise or letting, but no further or otherwise.

LIX. And be it further enacted, That in case all or any of the tolls arising by virtue of any Act for repairing or amending any turnpike road shall have been or shall be demised or let to farm to any person or persons in any manner whatsoever, and the lessee or lessees, farmer or farmers thereof, shall neglect or refuse to perform the terms and conditions on which the same shall have been or shall be so demised or let; or in case the rent or rents agreed to be paid by such lessee or lessees, farmer or farmers, shall be in arrear by the space of seven days next after any of the days on which the same ought to be paid, pursuant to the agreement for letting to farm thereof; or in case any such lease or agreement shall in any other manner become void; then and in any of those cases it shall and may be lawful for any justice of the peace for the county or place, by warrant under his hand and seal, to order a constable or other peace officer, with such assistance as shall be necessary, to enter upon and take possession of any toll house or toll houses, toll gate, bar or chain, or weighing machine, and the buildings and appurtenances thereto belonging, and to remove and put out such lessee or lessees, farmer or farmers of the tolls arising thereat respectively, or other person or persons who shall be found therein, together with his her or their goods, out of and from the possession of the said toll house or toll houses, and from the collection of tolls, and to put the said trustees or commissioners, or any one of them, or their new appointed officer, or other person acting by or under their authority, into the possession thereof: and thereupon it shall be lawful for the said trustees or commissioners (if they shall think fit) to vacate and determine the contract or agreement (if any) for demising or letting the said tolls to such lessee or lessees, farmer or farmers, and the same shall be from that time utterly void to all intents and purposes (save as to the covenants or agreements for payment up to that time of the rent or rents thereby reserved, or other covenants or agreements on the lessee's part which shall have been holden) as if such demise or agreement had

never been made; and it shall be lawful for the said trustees or commissioners in every such case to demise or let to farm the said tolls again to any other person or persons, or cause them to be collected as if no former demise contract or agreement had been made relative thereto; any rule of law or right to the contrary notwithstanding.

LX. And be it further enacted, That in case the trustees or commissioners of any turnpike road shall at any time or times be desirous of paying off any portion of the principal monies due and owing upon the credit of such road, where all the interest due thereon shall have been duly paid or otherwise satisfied, it shall and may be lawful for them, at any meeting to be holden according to the directions of the said recited Act or this Act, or of the Act or Acts in execution of which they shall act, (notice of such intended meeting and of the purposes thereof being first given, at least twenty-eight days preceding the same, by advertisement in some newspaper printed in or usually circulated in the neighbourhood of the said road) if they shall think fit, instead of paying the same rateably amongst all the creditors, to determine by lot to which of such creditors the whole or any portion thereof shall be so paid, and to pay the same to such creditor or creditors only, or to any of the creditors with the consent of all the other creditors.

LXI. Provided always, and be it enacted, That the trustees or commissioners for making or maintaining any turnpike road shall not be personally subject to or liable to be charged with the payment of any sum or sums of money, by reason of their having signed or executed any mortgage or assignment by way of mortgage, or other security to be made by virtue or in pursuance of any Act for making or maintaining any turnpike road: Provided also, that in case any action suit or prosecution shall be brought or commenced against any such trustee or commissioner, for any thing done by virtue or in pursuance of the said recited Act of the third year of his present Majesty, or this Act, or any such Act for making or maintaining any turnpike road, all the costs charges and expences of defending such action suit or prosecution, or which such trustee or commissioner shall incur in consequence thereof, shall be defrayed out of the tolls arising on the turnpike road for which such trustee or commissioner shall act.

LXII. And be it further enacted, That all and every book and books containing the accounts and proceedings of the trustees or commissioners for executing any Act for making or maintaining any turnpike road, or containing any orders or agreements made or entered into by them, such book or books being kept and signed in manner directed by such Act, or by the said recited Act and this Act directed, shall and may be given in evidence in all cases of appeal, and in all prosecutions suits and actions whatsoever.

LXIII. And be it further enacted, That in case the trustees or commissioners for making or maintaining any turnpike road shall become possessed of any tenements or hereditaments which are useless or unnecessary for the purposes of such road, it shall and may be lawful for the said trustees or commissioners to sell and dispose of the same, in such and the same manner as by the said recited Act they are authorized and empowered to do in the cases of any land or ground not wanted for the purposes of such road.

LXIV. And be it further enacted, That so much of the said recited Act as enacts, that it shall not be lawful for the trustees or commissioners of any turnpike road, in altering or diverting the course of any part of the turnpike road under their care and management, to deviate over any inclosed lands or grounds more than one hundred yards, without the consent in writing of the owner or proprietor of such lands or grounds, or to take in or make use of any garden, yard, paddock, park, planted walk or avenue to a house, or planted and set apart as a nursery for trees, or any part thereof respectively, without the like consent of the owner or proprietor thereof first had and obtained, shall be and the same is hereby repealed.

No. XVII.

4 Geo. IV.

c. 95.

Instead of paying off Creditors rateably, Trustees may do so by Lot.

Trustees not personally liable for Mortgages.

Books used under former Acts to be Evidence.

Sale of unnecessary Tenements.

So much of recited Act as restrains Trustees from taking inclosed Lands, Gardens, &c., without Consent of Owner, repealed.

No. XVII.

4 Geo. IV.

c. 95.

Trustees not to
pull down
Dwelling
Houses, or take
in Gardens,
&c., without
Consent.

LXV. And be it further enacted, That it shall not be lawful for the trustees or commissioners of any turnpike road, in altering or diverting the course of any part of the turnpike road under their care and management, to take or pull down any dwelling-house or other building, or in altering or diverting the course of any part of the turnpike road under their care and management, to deviate over any inclosed lands or grounds more than one hundred yards from the line or course of such turnpike road, without the consent in writing of the owner or proprietor, or of the person or persons hereby authorized to act for and on behalf of the owner or proprietor of such dwelling-house or other building, or of such lands or grounds, or to take in or make use of any garden yard or paddock, or any park planted walk or avenue to a house, or any inclosed ground planted as an ornament or shelter to a house, or planted and set apart as a nursery for trees, or any part thereof respectively, without the like consent of the owner or proprietor thereof, or of the person or persons hereby authorized as aforesaid, first had and obtained; and it shall be lawful for all bodies politic corporate or collegiate, corporations aggregate or sole, tenants for life or in tail, husbands, guardians, trustees, feoffees in trust, committees, executors, administrators, and all other persons whomsoever, not only for or on behalf of themselves, their heirs and successors, but also for and on behalf of the person or persons entitled in reversion remainder or expectancy after them, and for and on behalf of their cestuique trusts, whether femes covert infants or issue unborn, lunatics idiots or other person or persons whomsoever, and to and for all femes covert who are or shall be seised of or interested in their own right, and to and for all and every person or persons whomsoever, who are or shall be possessed of or interested in any such lands, tenements, hereditaments, or premises, or who shall sustain any damage, to give their consent in writing to the said trustees or commissioners, for the taking or pulling down of such dwelling-house or other building, or the making such deviation of more than one hundred yards as aforesaid, or the making use of such garden, yard, paddock, park, planted walk, avenue or other such premises as aforesaid, and to contract with the said trustees or commissioners for the sale thereof, or for the satisfaction to be made for the same, or for such damages as aforesaid, and by conveyance, lease and release, or bargain and sale, to sell and convey unto the said trustees or commissioners all or any such lands, tenements, hereditaments, or premises, or any part thereof, for the purposes aforesaid; and all contracts sales and conveyances which shall be so made, shall be good valid and effectual to all intents and purposes, without fine or recovery, and shall be a complete bar to all estates tail and other estates, rights, titles, trusts, and interests whatsoever, any law, statute, usage, custom, or other matter to the contrary notwithstanding; and all such bodies politic corporate or collegiate corporations aggregate or sole, tenants for life or in tail, husbands, guardians, trustees, feoffees, committees, executors, administrators, and all other persons, shall be and are hereby indemnified for what they or any of them shall do by virtue or in pursuance of this Act: Provided always, that nothing herein contained shall extend, or be deemed taken or construed to extend, to revoke, limit, abridge, alter, or vary any powers or authorities contained in any Act or Acts of Parliament existing and in force at the passing of this Act, for making altering or diverting any turnpike road or roads, or the course thereof, to be made altered or diverted and maintained under the authority of such Acts, but the same powers and authorities shall and may be exercised and carried into effect by the trustees or commissioners appointed by such Acts, fully and effectually; any thing herein contained to the contrary notwithstanding.

Trustees to
fence Roads.

LXVI. And be it further enacted, That in all cases where the trustees or commissioners of any turnpike road shall turn or alter any part or parts of such turnpike road, or make any new road over and through any private grounds, or across any public or private footway, or shall take away any fence for widening or improving any such road, the said trustees or

or commissioners shall make or cause to be made and planted proper quickset hedges, or shall make or build proper fences or walls on both sides of such new made road, or on the side upon which any such fence may be so removed as aforesaid, with sufficient ditches to the same, and sufficient posts and rails, or other fence, on both sides of such quickset hedges, to protect the growth thereof, so as effectually to guard and fence off the lands adjoining any such road from trespass or injury by horses, asses, cattle, sheep, or swine; and also proper gates, stiles, posts, bridges, and arches, where necessary, out of any such road into the lands adjoining, and shall keep such fences so to be made in good order and repair for and during the term of five years from the time that such fences shall have been made or set up; unless the owners or proprietors for the time being of any such land or ground shall agree with the trustees or commissioners to keep such fences in repair from an earlier period for such time as aforesaid.

LXVII. And be it further enacted, That it shall be lawful for the surveyor and surveyors, and such other person and persons as shall be appointed by the trustees or commissioners of any turnpike road, from time to time to cut make or maintain drains or watercourses upon and through any lands lying contiguous to any such road, and also to make ditches in such places and in such manner as such surveyor and surveyors, by order of such trustees or commissioners, shall judge necessary; and make sufficient fences and barriers, and other erections, on any part or parts of the said road, in order to prevent any rivulet or current of water from flooding the same, as such surveyor or surveyors shall judge necessary; making such satisfaction to the owners or occupiers of such lands so to be used cut through or built upon for the damages which they or any of them may sustain thereby, as such trustees or commissioners shall judge reasonable; and in case of any difference between such owners or occupiers and such trustees or commissioners touching such damages, the same shall be finally settled by any two or more justices of the peace for the county city or place in which such road shall lie or be situate.

LXVIII. And whereas doubts have arisen and may arise, whether any body politic or corporate, or any particular person or persons, liable to repair, by tenure or otherwise, any old turnpike road or part of such road widened, altered, diverted, or turned, ought to repair or contribute to the repair of the whole or any part or proportion of the new road set out in lieu of the old turnpike road; for obviating such doubts, and preventing disputes about the same, be it further enacted, That all and every body politic or corporate, and person and persons, who was were or shall be liable as aforesaid to the repair of any old turnpike road, which has been since the passing of the said recited Act, or shall be widened, altered, diverted, or turned, shall respectively be and continue in the same manner liable to the repair of such new road, set out in lieu of the old road, or so much thereof as shall be equal to the burthen and expence of repairing such old road, from which he she or they shall be exonerated by the widening, altering, diverting, or turning thereof; and if the several parties interested therein cannot agree, the same shall be viewed by two justices of the peace of the county where such road shall be, and shall be settled adjusted and determined by them, in such manner as they shall think just and reasonable; and from and after such determination of the justices, the body politic or corporate, and person or persons liable to repair such new road as aforesaid, shall bear all charges of presentments indictments and prosecutions for not repairing the same; and if it shall be found more convenient to fix a gross sum or an annual sum, to be paid by any such body politic or corporate, or person or persons, instead of fixing the part or proportion of such new road to be repaired by him her or them, the said justices may, with the consent of such person or persons, and also of the trustees or commissioners of the road, obtained at a meeting of such trustees or commissioners, order and direct the same accordingly; and the order and direction of the said justices shall be final and conclusive, and shall continue binding on all bodies politic or corporate, and persons whomsoever.

No. XVII.

4 Geo. IV.

c. 95.

Surveyors may
make Drains,
&c.

Regulating the
Repair of Roads
when widened,
&c., in Cases of
Liability to re-
pair old Roads.

No. XVII.

4 Geo. IV.

c. 95.

Damages and Charges in Cases of Distress to be settled by Justices.

Repeal of Provision in recited Act for Non-payment of Damages.

In case of Non-payment of Compensation for Damages, &c., by the said Trustees, &c., the same to be levied by Distress of the Goods vested in Trustees, &c., or their Treasurer.

For preventing Annoyances.

LXIX. And be it further enacted, That where by this Act or the said recited Act, or any Act for making or maintaining any turnpike road, any damages or charges are directed or authorized to be paid or recovered, in addition to any penalty or penalties for any offence or offences, the amount of such damages or charges, in case of dispute respecting the same, shall be settled ascertained and determined by the justice or justices of the peace by or before whom any offender shall be convicted of any such offence or offences; who is hereby authorized and required, on non-payment thereof, to levy such damages or charges by distress and sale of the offender's goods and chattels, in manner directed by the said recited Act for the levying of any penalties or forfeitures.

LXX. And whereas it was by the said Act enacted, that when any sum of money should be ordered to be paid by any justice of the peace, in pursuance of the directions of any Act relating to turnpike roads, by way of compensation or satisfaction for any materials, costs, damages, spoil, or injury done or committed by any such trustees or commissioners, or any person or persons acting under their authority, and such sum should not be paid by the said trustees or commissioners to the parties entitled to receive the same within fourteen days after demand in writing should have been made, then the amount of such compensation or satisfaction should be levied and recovered by distress and sale of the goods and chattels vested in the said trustees or commissioners by virtue of any such Act, under a warrant to be issued for that purpose by such justice or justices of the peace: And whereas the said provision has been found inconvenient; be it therefore enacted, That the said provision shall be and the same is hereby repealed.

LXXI. And be it further enacted, That when and as often as any sum or sums of money shall be directed or ordered to be paid by any justice or justices of the peace, in pursuance of the directions of the said recited Act or this Act, or any Act relating to turnpike roads, as or by way of compensation or satisfaction for any materials or costs, or for any damage spoil or injury, of any nature or kind whatsoever, done or committed by such trustees or commissioners, or any person or persons acting by or under their authority, and such sum or sums of money shall not be paid by the said trustees or commissioners to the party or parties entitled to receive the same, within ten days after demand in writing shall have been made from the clerk to the said trustees or commissioners, or their treasurer, in pursuance of the direction or order made by such justice or justices, and in which demand the order of such justice or justices shall be stated, then and in such case the amount of such compensation or satisfaction shall and may be levied and recovered by distress and sale of the goods and chattels vested in such trustees or commissioners by virtue of any Act for making or repairing turnpike roads, or of the goods and chattels of their treasurer for the time being, under a warrant to be issued for that purpose by such justice or justices, which warrant any such justice or justices is and are hereby authorized and required to grant under his hand and seal or their hands and seals, on application made to him or them for that purpose by the party or parties entitled to receive such sum or sums of money as or by way of compensation or satisfaction for any such materials, costs, damages, spoil, or injury as aforesaid; and in case any overplus shall remain after payment of such sum or sums of money, and the costs and expences of hearing and determining the matter in dispute, and also the costs and expences of such distress and sale, then and in such case such overplus shall be returned on demand to the said trustees or commissioners, or to their treasurer for the time being, as the case may be: Provided always, that it shall and may be lawful for such treasurer to retain, out of any monies which he shall have received or shall receive in pursuance of any such Act, or the said recited Act or this Act, all such damages, costs, charges, and expences as he shall have sustained or be put unto by virtue of any such warrant as aforesaid.

LXXII. And be it further enacted, That if any person or persons whomsoever shall wilfully pull down, break, injure, or damage any table of tolls

put up or fixed at any toll gate or bar on any part of any turnpike road, or wilfully or designedly deface or obliterate any of the inscriptions, letters, figures, or marks thereon; or if any person or persons shall wilfully pull up, throw down, break, injure, or damage any posts rails or fences placed or to be placed or put up by order of any trustees or commissioners of any turnpike road, or their surveyor or surveyors, either by the side or sides of such road, or at or near to any pit or quarry which shall be used opened or made for the getting of stones gravel or other materials for the purposes thereof, in order to prevent accidents; or if any person or persons shall wilfully cause any damage or injury to be done to any bridge, arch, wall, or other building or erection to be set up or erected by virtue of any Act on any part of any turnpike road, or by the side or sides thereof; or if any person or persons shall cast or throw any earth or rubbish, or other matter or thing, into any drain, ditch, culvert, tunnel, or other watercourse made by virtue of any Act, so as to obstruct the water from running or draining off any turnpike road; or if any person or persons shall, without being thereto authorized by the surveyor or surveyors for the time being acting under any Act, shovel up, scrape, gather, or carry away any stones, gravel, sand, or other materials, slutch, dirt, mire, drift, or soil from off any footpath or causeway, or any other part of such road; or if any person shall in any manner wilfully prevent any other person or persons from passing him or her, or any carriage under his her or their care, upon any such road; or if any such person shall dig make or use any pit or pits for sawing of timber or wood within thirty feet of the centre of any such turnpike road, unless where inclosed by a fence from any such road; every person offending in any of the cases aforesaid shall forfeit and pay a sum not exceeding forty shillings for every such offence; and one moiety of such penalties shall be paid to the informer, and the other moiety thereof shall be paid to the treasurer of the trustees or commissioners of such turnpike road, and applied towards the repair of such road.

LXXIII. And be it further enacted, That in case the driver of any waggon cart or of any coach or other carriage, shall offend against any of the provisions of any Act for making or maintaining any turnpike road, or the said recited Act or this Act, whereby any penalty shall be incurred, and shall refuse to give his name, or shall abscond or absent himself so as not to be found, then it shall and may be lawful for any justice of the peace before whom complaint shall be made, and he is hereby required to issue a summons, requiring the owner of such waggon cart or other carriage to appear before him to answer the matter of such complaint; and if such owner shall refuse or neglect to appear, or appearing shall not then, or within ten days thereafter, produce the driver so offending, or disclose his name and place of abode, then the said justice, or any other justice of the peace, on an examination of the circumstances, and ascertaining, by the examination of witnesses on oath, that such offence has been committed by any such driver of any waggon cart or other carriage, shall order and adjudge that the penalty incurred by such driver shall be paid by the owner of such waggon cart or other carriage; which penalty shall be recovered and applied in manner directed by the said recited Act.

LXXIV. And whereas it was by the said recited Act enacted, that if any horse, ass, sheep, swine, or other beast or cattle, should at any time be found wandering straying or lying about any turnpike road, or across any part thereof, or by the sides thereof (except on such parts of any road as lead or pass through or over any common or waste or uninclosed ground), it should be lawful for any surveyor of the road where the same should be found, or any other person or persons, to seize and impound every such horse, ass, sheep, swine, or other beast or cattle, in the common pound of the parish or place where the same should be, or in such other place as the trustees or commissioners of the road where the same should be found shall have provided for that purpose, and the said horse, ass, sheep, swine, or other beast or cattle there to detain, until the owner thereof should for every horse, ass, sheep, swine, or other beast or cattle so impounded, pay the sum of five shillings to the person impound-

If Driver offend against the Provisions of any Act, and abscond, the Master to pay the Penalty.

Provision in recited Act for impounding Cattle, &c., repealed.

No. XVII.
4 Geo. IV.
c. 95.

Cattle found
straying on the
Roads to be im-
pounded.

ing the same, together with the reasonable charges of impounding and keeping the same; and in case the said penalty and charges should not be paid within four days after such impounding, it should be lawful for the surveyor of the road on which the same should have been seized, to sell such horse, ass, sheep, swine, or other beast or cattle; and the money arising from such sale, after deducting the said penalty and charges of impounding keeping and selling every such horse, ass, sheep, or swine, or other beast or cattle, should be paid to the person whose property the same so sold should appear to have been: And whereas the said provision has been found inconvenient; be it therefore enacted, That the said provision shall be and the same is hereby repealed.

LXXXV. And be it further enacted, That if any horse, ass, sheep, swine, or other beast or cattle of any kind, shall at any time be found tethered, or wandering, straying, or lying about any turnpike road, or on any part thereof (except on such parts of any road as lead or pass through or over any common or waste or uninclosed ground), it shall and may be lawful for any surveyor of the road where the same shall be found, or any other person or persons whomsoever, to seize and impound every such horse, ass, sheep, swine, or other beast or cattle, in the common pound (if any) of the parish, township, tithing, or place where the same shall be found, or in such other place as the trustees or commissioners of the road where the same shall be found shall have provided or shall provide for that purpose, and the said horse, ass, sheep, swine, or other beast or cattle there to detain, until the owner or owners thereof shall for every and each horse, ass, sheep, swine, or other beast or cattle so impounded, pay the sum of two shillings, together with the reasonable charges and expences of impounding and keeping the same, to the treasurer clerk or surveyor of the road on which the beast so impounded shall have been found; the said sum of two shillings for each beast to be applied to the use of, and in aid of the tolls of such road; and in case the said penalty charges and expences shall not be paid within five days after such impounding, (notice being thereof first given to the owner, if known, at the time, or if not known, by affixing written notices at the two next toll gates on the road nearest to the place where the same shall be impounded), it shall and may be lawful for any one or more justice or justices of the peace of the county or place where the offence shall have been committed, to order every such horse, ass, sheep, swine, or other beast or cattle to be sold, except where it shall be made to appear to such justice or justices, that the horse, ass, sheep, swine, or other beast impounded, escaped from any inclosure by any gate or fence being wilfully or negligently left open or destroyed by any person not being owner or occupier of such inclosure, or employed by such owner or occupier, in which case such justice or justices may remit the said penalty; and the money arising from such sale, after deducting the said penalty and charges and expences of impounding keeping and selling every such horse, ass, sheep, swine, or other beast or cattle, shall be paid to the person whose property the same so sold shall appear to have been; and in case the owner thereof shall not be known, and no application shall be made for the money arising from such sale within twenty-one days after such sale shall have taken place, the said money shall be applied, after deducting the said charges and expences, in the same manner as the said penalty of two shillings is herein-before directed to be applied: Provided always, that no owner of any horses, asses, sheep, swine, or other beasts or cattle impounded as aforesaid, shall in any case pay more than the sum of five pounds over and above the charges and expences of impounding and keeping the same, for any number of horses, asses, sheep, swine, or other beasts or cattle impounded at one time: And provided always, that nothing in this clause shall be deemed taken or construed to extend to take away any right of pasturage which may exist on the sides of any turnpike roads.

Limiting the
Extent of Pen-
alty.

Right of Pas-
turage not taken
away.

Carriers' Dogs
to be fastened
to the Carriage.

LXXXVI. And be it further enacted, That if any person or persons, having the care of any waggon, wain, cart, or other such carriage conveying goods for hire or reward, or for sale, on any turnpike road, shall not chain or fasten any dog that may be attending him or them on such road

to such waggon, wain, cart, or carriage, every person so offending shall forfeit and pay any sum not exceeding twenty shillings.

LXXVII. And whereas the form of the list to be delivered to the surveyors of turnpike roads by the surveyors of the highways is omitted in the schedule to the said recited Act; be it further enacted, That the form given in the schedule to this Act annexed marked (No. 2.) shall and may be used for that purpose.

LXXVIII. And be it further enacted, That it shall and may be lawful for the trustees or commissioners of any turnpike road, or for their clerk surveyor or any other officer by their order, to contract and agree, by the year or otherwise, with any person or persons for the making, amending, altering, or maintaining the said road, or any bridges toll houses or buildings thereon, or for any other thing which such trustees or commissioners are by any Act for making or maintaining turnpike roads, or the said recited Act or this Act, or any other Act, authorized or empowered to make, build, do, execute, or perform; and all contracts or agreements in writing entered into by the said trustees or commissioners, or pursuant to any order of the said trustees or commissioners, by their clerk surveyor or other officer, with any workmen or other person or persons, relating to any matter or thing to be done by virtue of any such Act, or the said recited Act or this Act, shall be binding on the said trustees or commissioners and their successors, and upon all other parties who shall sign the same, and the heirs executors and administrators of such other parties; and that actions and suits shall and may be maintained thereon by the said trustees or commissioners, and damages and costs recovered against the party or parties, or person or persons failing in the performance of such contracts or agreements respectively; and such sum or sums of money as shall be requisite for the due performance of such contract shall be the measure of the damages to be recovered in any action or suit against such party or parties, or person or persons so as aforesaid making default in fulfilling his or their contract or agreement; any law or usage to the contrary in anywise notwithstanding.

LXXIX. And whereas it was by the said recited Act enacted, that all persons who by law should be liable to do statute work, or should be chargeable towards the repairing and amending any turnpike road, should remain liable thereto, and it should be lawful for any two or more justices of the peace for the place in which any such turnpike road should be situate, upon application made to them by the trustees or commissioners of any turnpike road, yearly to determine what part of the statute work should every year be done upon such road by the inhabitants of the respective parishes hamlets and places through which the said road should pass, and also what proportion of the money received by the surveyors of the highways, as a composition for such statute work, should be paid to the said trustees or commissioners, or their treasurer; and that such surveyor should, on an order in writing made by the said justices, bring and deliver within ten days afterwards, to the said turnpike surveyor, true and perfect lists in writing of the names of the several persons subject and liable to do statute work for that year, or to the payment of any money as a composition for such statute work; and the said turnpike surveyor should, within five days afterwards, give a notice to the surveyors of the highways of the time when such lists would be laid before the said justices, in order to apportion the said statute duty, and at the time appointed the said lists should be laid before the said justices by the said turnpike surveyor, in the presence of the said surveyor of the highways; and out of such lists the said justices should order such and so many of the persons who should appear to be subject and liable to do statute work in every year upon such road as the said justices should think reasonable, and the same should be done on such days as the said trustees or commissioners, or their surveyor, should appoint; and the said justices should order the persons who by such lists should be subject and liable to the payment of any money as a composition for the statute work, to pay such proportion thereof as the said justices should think proper, to the surveyors of such parishes, to be by them paid over to the said trustees or

No. XVII.

4 Geo. IV:

c. 95.

Form of Surveyors' List given in Schedule No. 2.

Contracts or Agreements may be made for Amending Roads, &c.

Provision in recited Act respecting Statute Labour, repealed.

No. XVII.

4 Geo. IV.

c. 95.

Regulations as
to Statute La-
bour.

commissioners, or their treasurer, at such times as the said justices should direct; and every person who should neglect or refuse to do such statute work should, for every day of his default, be subject and liable to such fines and forfeitures as such person might be subject or liable to by any law or statute in force for repair of the public highways; and if any person who should come to work as a labourer, or should be sent with any team to work on any part of such road, should be found idle or negligent, the surveyor to the said trustees or commissioners is thereby empowered to dismiss the person who should be so found idle or negligent; and every such person should be subject and liable to the respective forfeitures and payments, as if he had neglected or refused to come, or such team had not been sent to work; all which forfeitures should be paid to the treasurer of such trustees or commissioners, and applied towards amending such road; and in case the surveyor or surveyors of the highways should refuse or neglect to give in any such lists as aforesaid, or knowingly or wilfully give in false and imperfect lists, or refuse or neglect to collect or pay over such composition money or any part thereof, every such surveyor so offending should, for every such offence, forfeit and pay any sum not exceeding ten pounds: And whereas it is expedient that the said provision should be repealed; be it therefore enacted, That the said provision shall be and the same is hereby repealed.

LXXX. And be it further enacted, That all persons who by law are or shall be liable to do statute work, or are or shall be chargeable towards the repairing and amending any turnpike road, shall be and remain liable thereto, in like manner in every respect as they now are or have heretofore been; and it shall be lawful for any two or more justices of the peace in and for the county city or place in which any such turnpike road shall lie or be situate, and they are hereby required and empowered, upon application made to them by any three or more of the trustees or commissioners of such turnpike road, or by their clerk or surveyor, yearly to adjudge and determine what part or proportion of the statute work shall every year be done upon such road by the inhabitants of the respective parishes hamlets and places in or through which the said road doth or shall lie lead or pass, and also what proportion of the money received by the surveyor or surveyors of the highways of every such parish hamlet or place, in lieu of or as a composition for such statute work as aforesaid, shall be by him her or them paid to the said trustees or commissioners, or their treasurer or treasurers; and in order thereunto the surveyor or surveyors of the highways for every such parish hamlet or place, shall, on an order in writing made by the said justices, on an application to them by the trustees or commissioners of the turnpike road, or any three or more of them, or by their clerk or surveyor, and respectively delivered to such surveyor or surveyors of the highways, or left at his or their last or usual place of abode, bring and deliver within ten days afterwards to the said turnpike surveyor, or to his place of abode, true and perfect lists in writing of the names of the several persons who within such parish hamlet or place are by law subject and liable to do statute work for that year, or to the payment of any money in lieu of or as a composition for such statute work, distinguishing the nature of the work to be done, whether with teams or draughts or otherwise, and also the amount of the respective sums to be paid; which lists of names shall be made in such manner and under such regulations and restrictions as are or may be directed by any law or statute in force or effect for the repairs of the public highways, and may be made in the form specified in the schedule to this Act; and the said turnpike surveyor, having received such lists, shall within fourteen days afterwards give a notice to the surveyor or surveyors of the highways of the time when such lists will be laid before the said justices, in order to apportion the said statute duty; and at the time appointed in and by such notice the said lists shall be laid before the said justices by the said turnpike surveyor, in the presence of the said surveyor of the highways (if he shall attend), and out of such lists the said justices shall and may allot appoint and order such and so many of the persons who shall appear to be subject and liable



to do statute work in every year upon such road, as the said justices shall think reasonable, and the same shall be done on such days, and at such time (not being hay-time or harvest), and on such parts of the said road, as the said trustees or commissioners, or their surveyor or surveyors; shall from time to time order direct or appoint; and the said justices shall and may order and direct the surveyor or surveyors of such parishes hamlets and places respectively to pay over to the said trustees or commissioners, or their treasurer, or other person duly authorized to receive the same, such proportion of the composition money for statute work as aforesaid as they the said justices shall think proper, and at such time or times as the said justices shall direct; and each and every person who shall neglect or refuse to do such statute work as aforesaid, after notice in writing given to or left for him her or them, at his her or their last or usual place or places of abode for that purpose, by any surveyor to the said trustees or commissioners, shall for every day of his her or their default, or the default of any labourer or labourers, team or teams, draught or draughts, horse or horses, beast or beasts, to be provided by him her or them, be subject and liable to such fines penalties and forfeitures as such person or persons may be subject or liable by any law or statute now in force or effect for repair of the public highways; and if any person who shall come to work as a labourer, or shall be sent with any team or draught to work on any part of such road, shall be found idle or negligent by any surveyor to the said trustees or commissioners, such surveyor is hereby empowered to remove and dismiss the person who shall be found idle or negligent as aforesaid; and in that case every such person shall be subject and liable to the respective forfeitures and payments as aforesaid, as if he had neglected or refused to come, or such team or draught had not been sent to work on any part of such road; all which forfeitures shall be paid to the treasurer to the said trustees or commissioners, and applied towards amending the said road; and in case the surveyor or surveyors of the highways for any of the said parishes hamlets or places shall refuse or wilfully neglect to give in any such lists as aforesaid, or shall knowingly or wilfully give in false and imperfect lists, or shall refuse or neglect to collect or pay over such composition money, or any part thereof, in manner aforesaid, every such surveyor so offending shall for every such offence forfeit and pay any sum not exceeding ten pounds; and such composition money shall and may be recovered from such surveyor or surveyors of the highways, by distress and sale of his or their goods and chattels, by warrant under the hands and seals of any two justices of the peace for the county city or place where any such road shall lie or be situate.

LXXXI. And be it further enacted, That where any turnpike road shall pass through any parish township or place liable to the repair of the roads within the same, but for which no surveyor of the highways shall be appointed; then and in every such case the churchwardens and overseers of the poor of such parishes townships and places respectively, and in cases where neither surveyor churchwardens or overseers of the poor shall be appointed, then such other inhabitant or inhabitants of such parish township or place as shall be thereto required by an order in writing made by the justices on application to them by the trustees or commissioners of the turnpike road or by their clerk or surveyor, and respectively delivered to such churchwardens or overseers, or inhabitant or inhabitants, or left at his or their last or usual places of abode, shall deliver or cause to be delivered within ten days afterwards to the said turnpike surveyor, or to his place of abode; true and perfect lists in writing of the names of the several persons who within such parish township or place are by law subject and liable to do statute work for that year, or to the payment of any money in lieu of or as a composition for such statute work, distinguishing the nature of the work to be done, whether with teams or draughts or otherwise, and also the amount of the respective sums to be paid; which lists shall be made and used, and dealt with in the manner directed by the said recited Act and this Act; and the statute work shall be ordered and adjudged by the justices, and enforced and required, or compounded for, in the same way as if the said lists had been made and delivered by the

In case no Highway Surveyor appointed, Lists of Persons liable to do Statute Work to be made out in manner herein directed.

No. XVII.
4 Geo. IV.
c. 95.

Instead of Com-
positions for
Statute Work
being paid by
Sept. 29, year-
ly, such Com-
position shall be
paid according
to Agreements.

Justices may
proceed by
Summons in the
Recovery of
Penalties.

Trustees, &c.,
may be Wit-
nesses.

So much of re-
cited Act as
authorizes
Mitigation of
Penalties, re-
pealed.

So much of re-
cited Act as
gives the Power
of Appeal to
Quarter Ses-
sions, repealed.

surveyor of the highways, under the provisions and authorities of the said recited Act and this Act.

LXXXII. And be it further enacted, That so much of the said recited Act as directs, that the composition money in lieu of statute duty shall always be paid by the surveyor or surveyors of the highways, or other officer of the parish hamlet or place, or by the person or persons compounding, to the treasurer of the trustees or commissioners, in advance on or before the twenty-ninth day of *September* in each and every year, or otherwise that such person or persons bodies politic or corporate or inhabitants and occupiers, within such parish hamlet or place, shall not be permitted to compound for that year, shall be and the same is hereby repealed; and from and after the passing of this Act, all composition money in lieu of statute duty shall be paid by the person or persons compounding, to the treasurer of the trustees or commissioners, at such time or times, and in such manner as shall be agreed upon at the entering into such composition.

LXXXIII. And be it further enacted, That in all cases in which by the said recited Act any penalty or forfeiture, by that or any other Act or Acts for making or maintaining any turnpike road imposed, is made recoverable by information before a justice of the peace, it shall and may be lawful for any justice of the peace to whom complaint shall be made of any offence against any such Act, or the said recited Act or this Act, to summon the party complained against before him, and on such summons to hear and determine the matter of such complaint, and on proof of the offence to convict the offender, and to adjudge him to pay the penalty or forfeiture incurred, and to proceed to recover the same, although no information in writing shall have been exhibited or taken by or before such justice; and all such proceedings by summons without information shall be as good valid and effectual, to all intents and purposes, as if an information in writing was exhibited.

LXXXIV. And be it further enacted, That no person shall be deemed incompetent to give evidence, or be disqualified from giving testimony or evidence in any action, suit, prosecution, or other legal proceedings to be brought or had in any court of law or equity, or before any justice or justices of the peace under or by virtue of any Act for making or maintaining any turnpike road, or the said recited Act or this Act, by reason of being a trustee or commissioner of such road, or a mortgagee or creditor of the tolls thereof, or a farmer lessee or collector of such tolls, or a treasurer or clerk, or surveyor, or other officer under such Act; nor shall such testimony or evidence, for any of the reasons aforesaid, be rejected or liable to be questioned or set aside.

LXXXV. And be it further enacted, That so much of the said recited Act as authorizes any justice or justices of the peace, before whom any person shall be convicted of any offence against the said Act, or any Act for making or repairing turnpike roads, to mitigate or reduce the penalty incurred by such person, so as such reduction or mitigation do not exceed two-thirds of the penalty to which such person would be liable, shall be and the same is hereby repealed.

LXXXVI. And be it further enacted, That so much of the said recited Act as enacts, that if any person shall think himself or herself aggrieved by any thing done by any justice or justices of the peace in pursuance of this Act, except under the particular circumstances herein-after mentioned, and for which no particular method of relief hath been already appointed, such person, in case the penalty or forfeiture shall exceed the sum of forty shillings, where the appeal is to be against a conviction for a penalty or forfeiture, may be made to the justices of the peace at the next general or quarter sessions of the peace to be held for the limit wherein the cause of such complaint shall arise, such appellant giving or causing to be given to such justice, by whose act or acts such person shall think himself or herself aggrieved, notice in writing of his or her intention to bring such appeal, and of the matter thereof, within six days after the cause of such complaint arose, and within four days after such notice entering into recognizances before some justice of the peace, with two suffi-

cient sureties, conditioned to try such appeal at, and abide the order of, and pay such costs as shall be awarded by the justices at such quarter sessions, and also to pay the penalty or forfeiture, in case the conviction should be affirmed; and each and every justice of the peace, having received notice of such appeal as aforesaid, shall return all proceedings whatever had before him respectively touching the matter of such appeal, to the said justices at their general quarter sessions aforesaid, on pain of forfeiting fifty pounds for every such neglect; and the said justices at such sessions, upon due proof of such notice having been given as aforesaid, and of such recognizance having been entered into in manner before directed, shall hear and finally determine the causes and matters of such appeal in a summary way, and award such costs to the parties appealing or appealed against as they the said justices shall think proper, to be levied and recovered as herein-before directed, and the determination of such quarter sessions shall be final and conclusive to all intents and purposes; and no proceeding to be had or taken in pursuance of this Act shall be quashed or vacated for want of form, or removed by *certiorari*, or any other writ or process whatsoever, into any of his Majesty's Courts of Record at *Westminster*; any law or statute to the contrary notwithstanding: Provided always, that in case there shall not be time to give such notice, and enter into such recognizances as aforesaid, before the next sessions to be holden after the conviction of the appellant, then and in every such case such appeal may be made to the next following sessions, and shall be there heard and determined; shall be and the same is hereby repealed.

No. XVII.

4 Geo. IV.

c. 95.

Persons ag-
grieved may ap-
peal to Quarter
Sessions.

LXXXVII. Provided always, and be it further enacted, That if any person shall think himself or herself aggrieved by any order judgment or determination made, or by any matter or thing done by any justice or justices of the peace, or by any trustees or commissioners of any turnpike road in pursuance of this Act, or the said recited Act, or any local Act for making repairing or maintaining any turnpike road, (except where the order judgment or determination of any such justice or justices, trustees or commissioners, are hereby declared to be final and conclusive, and except under the particular circumstances herein-after mentioned), and for which no particular method of relief hath been already appointed, such person may appeal to the justices of the peace at the next general or quarter sessions of the peace to be held for the county, division, riding, or place wherein the cause of such complaint shall arise, such appellant first giving or causing to be given to such justice commissioner or trustee, by whose Act or Acts such person shall think himself or herself aggrieved, notice in writing of his or her intention to bring such appeal, and of the matter thereof, within six days after the cause of such complaint shall arise, and within four days after such notice entering into recognizances before some justice of the peace, with two sufficient sureties, conditioned to try such appeal at, and abide the order of, and pay such costs as shall be awarded by the justices at such general or quarter sessions, and also to pay the penalty or forfeiture in case the conviction should be affirmed; and each and every justice of the peace commissioner or trustee, having received notice of such appeal as aforesaid, shall return all proceedings whatever had before him respectively, touching the matter of such appeal, to the said justices at their general or quarter sessions aforesaid; and the said justices at such sessions, upon due proof of such notice having been given as aforesaid, and of such recognizance having been entered into in manner before directed, shall hear and finally determine the causes and matters of such appeal in a summary way, and award such costs to the parties appealing or appealed against as they the said justices shall think proper, to be levied and recovered by distress and sale of the goods and chattels of the person or persons against whom such determination shall be given, and the determination of such general or quarter sessions shall be final and conclusive to all intents and purposes; and no proceeding to be had or taken in pursuance of this Act shall be quashed or vacated for want of form, or removed by *certiorari*, or any other writ or process whatsoever, into any of His Majesty's Courts of Re-

Nq. XVII.

4 Geo. IV.
c. 95.

Extending
Powers of for-
mer Act,
where not
hereby altered
or repealed, to
this Act.

Schedule No. 1.
(Table of
Weights) to be
used instead of
Schedule No. 2.
of recited Act.

Act not to ex-
tend to certain
Roads.

3 G. 4. c. 126.
or this Act, not
to extend to
59 G. 3. c. 30.
or 59 G. 3.
c. 48. or Roads
repaired under
them.

Act not to ex-
tend to the
Commercial
Road.

cord at *Westminster*; any law or statute to the contrary notwithstanding: Provided always, that in case there shall not be time to give such notice, and enter into such recognizances as aforesaid, before the next sessions to be holden after the conviction of the appellant, then and in every such case such appeal may be made to the next following sessions, and shall be there heard and determined: Provided always, that no appeal shall be allowed against any conviction for any penalty or forfeiture which shall not exceed the sum of forty shillings.

LXXXVIII. And be it further enacted, That all the powers, authorities, provisions, regulations, privileges, penalties, forfeitures, clauses, restrictions, matters, and things whatsoever, contained in the said recited Act, so far as the same are not expressly altered or repealed by this Act, shall extend and be construed to extend to operate and be in force with respect to this Act, and shall be applied and put in execution, as fully and effectually to all intents and purposes, as if the same were repeated and re-enacted in the body of this Act, and were made part thereof; and the said recited Act and this Act shall, as to all matters and things whatsoever (except as aforesaid), be considered as one Act.

LXXXIX. And whereas the schedule (No. 2.), intituled "Table of weights allowed in winter and summer to carriages directed to be weighed (including the carriage and loading)," has been found defective; be it therefore enacted, That the said schedule shall be and the same is hereby repealed; and the schedule (No. 1.) annexed to this Act shall be made use of instead thereof.

XC. And whereas doubts have arisen as to the roads to which the provisions of the said recited Act extend; be it therefore enacted, That nothing in the said recited Act or this Act contained shall extend or be construed to extend to any road or roads not under the care and management of trustees or commissioners, or to any road or roads which shall be made maintained or supported under the provisions of any Act or Acts of Parliament passed for an unlimited period notwithstanding tolls may be collected on such roads, or shall extend to affect alter or interfere with the qualifications of any commissioners or other persons having the care and management of any such last-mentioned roads, or with any tolls taken, or weights carried thereon, or in any other manner therewith.

XCi. Provided always, and be it enacted, That nothing in the said recited Act of the third year of the reign of his present Majesty, or in this Act contained, shall extend, or be deemed construed or taken to extend to an Act passed in the fifty-ninth year of the reign of his late Majesty, intituled, *An Act for vesting in Commissioners the Line of Road from Shrewsbury in the County of Salop to Bangor Ferry in the County of Carnarvon, and for discharging the Trustees under several Acts of the Seventeenth, Twenty-eighth, Thirty-sixth, Forty-first, Forty-second, Forty-seventh, and Fiftieth Years of his present Majesty, from the future Repair and Maintenance thereof, and for altering and repealing so much of the said Acts as affects the said Line of Road*; nor to an Act passed in the same year, intituled *An Act to amend an Act passed in the Fifty-fifth Year of the Reign of his present Majesty, for granting to his Majesty the sum of Twenty thousand Pounds towards repairing Roads between London and Holyhead, by Chester, and between London and Bangor, by Shrewsbury, and for giving additional Powers to the Commissioners therein named, to build a Bridge over the Menai Straits, and to make a new Road from Bangor Ferry to Holyhead, in the County of Anglesea*; nor to any road or roads repaired maintained and supported under the powers and provisions of the said two last-mentioned Acts.

XCII. Provided always, and be it further enacted, That nothing in this Act contained shall extend, or be construed, adjudged, deemed, or taken to extend to the turnpike road called the *Commercial Road*, or the several branches leading from and out of the same, authorized to be made repaired and maintained under and by virtue of five several Acts of Parliament, made and passed in the forty-third, forty-fourth, forty-sixth, forty-ninth, and fifty-first years of the reign of his late Majesty King George the Third, for making and maintaining the roads communicating with

the *West and East India Docks*, and for repairing the *Cannon Street* road, and for making and maintaining a new road to *Barking*, and a road from the *Romford* and *Whitechapel* road to *Tilbury Fort*, in the counties of *Middlesex* and *Essex*, and also for making a new branch of road from *King David Lane, Shadwell*, to the *Essex* road at *Mile End*, in the county of *Middlesex*, or to affect, encroach upon, vary, alter, or interfere with any of the tolls weights or duties created by virtue of the said Acts or any of them, or any of the powers and authorities given to or vested in the trustees acting under or by virtue of the said Acts, or any or either of them.

XCIII. Provided always, and be it further enacted, That so much of the turnpike road from *Carlisle* to *Glasgow* as lies in the county of *Cumberland* shall, from and after the passing of this Act, be subject to the regulations powers and provisions of the said Act passed in the third year of the reign of his present Majesty, and this Act, so far as the same respects nuisances annoyances and trespasses; and the justices of the peace acting for the county of *Cumberland* are hereby authorized and empowered to enforce all penalties for nuisances annoyances and trespasses on the said road, within the said county of *Cumberland*.

XCIV. And be it further enacted, That this Act may be altered varied or repealed by any Act to be passed in this present session of Parliament.

No. XVII.

4 Geo. IV.
c. 95.

Certain Part of
Road from Car-
lisle to Glas-
gow to be sub-
ject to General
Act.

Act may be al-
tered or repeal-
ed this Session.

SCHEDULES to which this Act refers.

(No. 1.)

TABLE of WEIGHTS allowed in Winter and Summer to Carriages directed to be weighed (including the Carriages and Loading), by the Act of the Fourth George the Fourth.

	SUMMER.		WINTER.	
	Tons.	Cwts.	Tons.	Cwts.
For every Waggon with Nine-inch Wheels - -	6	10	6	0
For every Cart with Nine-inch Wheels - - -	3	10	3	0
For every Waggon with Six-inch Wheels - - -	4	15	4	5
For every Cart with Six-inch Wheels - - -	3	0	2	15
For every Waggon with Wheels of the Breadth of Four Inches and a Half - - - - -	4	5	3	15
For every Cart with Wheels of the Breadth of Four Inches and a Half - - - - -	2	12	2	7
For every Waggon with Wheels of less than 4½ Inches - - - - -	3	15	3	5
For every Cart with Wheels of less than 4½ Inches	1	15	1	10

Schedule (No. 2.)

A LIST, containing the Names of all Persons in the Parish or Place of _____ in the _____
 who are liable to do Statute Work, and to the Payment of Composition in lieu thereof, for the Year commencing from _____
 (Signed) _____

Surveyors of the said Parish or Place.

1.	2.	3.	4.	5.	6.	7.
Names of Persons liable.	No. of Horses kept.	Full Annual Value.	Rate of Composition.	Total Amount liable in Money.	No. of Days' Duty Work.	General Observations.
		£ s. d.				

[No. XVIII.] 5 George IV. c. 69.—An Act to enable Justices of the Peace for Ridings Divisions or Sokes, to act as Trustees for repairing and maintaining Turnpike Roads.—[17th June 1824.]

No. XIX.
9 Geo. IV.
c. 77.

WHEREAS an Act was passed in the third year of the reign of his present Majesty, intituled *An Act to amend the general Laws now in being for regulating Turnpike Roads in that Part of Great Britain called England*: And whereas one other Act was passed in the fourth year of the reign of his said present Majesty, intituled *An Act to explain and amend an Act passed in the third Year of the Reign of His present Majesty, to amend the general Laws now in being for regulating Turnpike Roads in that Part of Great Britain called England*; and by the said first recited Act it was amongst other things enacted, that all his Majesty's justices of the peace for the time being, acting for the county or counties through which any turnpike road now does or hereafter shall pass, shall be added to and joined with the trustees or commissioners for making repairing or maintaining every such turnpike road, and shall have all the same powers and authorities to all intents and purposes as if the said justices had severally been named or elected trustees or commissioners in or under any Act or Acts of Parliament under which such roads shall be made repaired or maintained: And whereas it is expedient that his Majesty's justices of the peace acting for any riding division or soke should also be enabled to act as trustees for the repair of turnpike roads: May it therefore please your Majesty that it may be enacted; and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That from and after the passing of this Act all his Majesty's justices of the peace for the time being, acting for the county or counties, riding or ridings, division or divisions, soke or sokes, through any part of which any turnpike road now does or hereafter shall pass, shall have such and the like powers and authorities for the making and repairing any such turnpike road, and be subject to the same rules and regulations, by virtue of or under the said recited Acts, as any of his Majesty's justices of the peace acting for any county or counties.

3 G. 4. c. 126.

4 G. 4. c. 95.

Justices acting for Ridings or Divisions, &c., through which Roads pass shall have the like Powers for making and repairing Turnpike Roads as Justices for Counties.

[No. XIX.] 9 George IV. c. 77.—An Act to amend the Acts for regulating Turnpike Roads.—[25th July 1828.]

WHEREAS an Act was passed in the third year of the reign of his present Majesty, intituled *An Act to amend the general Laws now in being for regulating Turnpike Roads in that Part of Great Britain called England*: And whereas another Act was passed in the fourth year of the reign of his present Majesty, intituled *An Act to explain and amend an Act passed in the third Year of the reign of His Majesty, to amend the general Laws now in being for regulating Turnpike Roads in that Part of Great Britain called England*: And whereas another Act was passed in the seventh and eighth years of the reign of his present Majesty, intituled *An Act to amend the Acts for regulating Turnpike Roads in England*: And whereas the said Acts require to be further amended and some enactments thereof to be repealed: May it therefore please your Majesty that it may be enacted; and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That so much of the said recited Act of the fourth year of the reign of his present Majesty as enacts that all and every book and books containing the accounts and proceedings of the trustees and commissioners for executing any Act for making or maintaining any turnpike road, or containing any orders or agreements made or entered into by them,

3 G. 4. c. 126.

4 G. 4. c. 95.

7 & 8 G. 4.
c. 24.

So much of recited Act of 4 G. 4. as enacts that Book of Accounts and Proceedings shall be received as Evidence repealed.

No. XIX.
9 Geo. IV.
c. 77.

Books of Accounts and Proceedings to be received in Evidence, without proving their Contents, notwithstanding the Act under which they have been kept is repealed; and to be open to Inspection.

Restriction of
3 G. 4. c. 126.
§ 45. as to the
Erection of Toll
Gates, repealed.
So much of
7 & 8 G. 4.
c. 24. as directs
Trustees to re-
move Toll
Gates, repealed.
Power to con-
tinue or erect
Toll Gates.

such book or books being kept and signed in manner therein mentioned, should and might be given in evidence in all cases of appeal, and in all prosecutions suits and actions whatsoever, shall be and the same is hereby repealed.

II. And be it further enacted, That all books kept for registering mortgages or assignments, and all entries therein, and all books containing the accounts and proceedings of the trustees in the execution of any local turnpike Act, kept according to the directions and provisions of any such Act, or of the said recited Act of the third year of the reign of his present Majesty or of this Act, and made evidence thereby, shall be admitted in evidence in all courts, and by all judges justices and others, without proving the facts therein contained, unless such facts, or any of them, shall be first controverted, notwithstanding any former Act, under the provisions of which such books may have been originally kept, may be repealed; and all such books shall be preserved and kept by the clerk for the time being of such trustees, and shall at all reasonable times be open to the inspection of the said trustees, and of any creditor or creditors of the tolls, without fee or reward; and the said trustees and creditors, or any of them, shall and may take copies of or extracts from the said book or books, or any part or parts thereof respectively, without paying any thing for the same; and in case the clerk to the said trustees shall refuse to permit, or shall not permit, the said trustees, or such creditors, or any of them, to inspect the said book or books, or to take such copies or extracts as aforesaid, such clerk shall forfeit and pay any sum of money not exceeding five pounds for every such offence.

III. And be it further enacted, That so much of the said recited Act of the third year of the reign of his present Majesty as directs that no toll gate shall be erected on the side of any turnpike road, unless the same be ordered by the trustees or commissioners at a public meeting, in manner therein mentioned, shall be and the same is hereby repealed.

IV. And be it further enacted, That so much of the said recited Act of the seventh and eighth years of the reign of his present Majesty as directs that it shall be lawful for the trustees of any turnpike road to order and direct any turnpikes toll gates or side bars to be removed, as therein directed, shall be and the same is hereby repealed.

V. And be it further enacted, That it shall be lawful for the trustees of any turnpike road, and they are hereby authorized and empowered, to continue all and every or any of the toll gates or toll houses now standing or being in upon or across any such turnpike road, or on the sides thereof, and from time to time at any special meeting to be holden for that purpose, of which meeting public notice, specifying the time and place and the purpose thereof, shall have been given in some newspaper published or circulated in the county or counties through which any such turnpike road passes, and also by affixing a copy of such notice on all the turnpikes toll gates or side bars (if any) which shall be then standing on such road, fourteen days previously to such meeting, to order and direct, by some order in writing, to be signed by three at least of the trustees present at such meeting, that there be erected and built in upon or across any such turnpike road or any part thereof, or upon the sides thereof, or any part thereof, when and where they shall judge necessary, such and so many toll gates, turnpikes, side bars, and chains, with toll houses, out-houses, and other conveniences thereto, and also to take in and inclose on the sides of such road, or any part thereof, suitable garden spots for each of such toll houses, not exceeding one-eighth of a statute acre to each toll house, as the said trustees shall direct or appoint; and also shall and may from time to time at any such meeting, or at any other meeting to be called as aforesaid, and by such order as aforesaid, from time to time order and direct any of such toll gates, turnpikes, side bars, and chains to be taken down or discontinued, or to be removed and placed elsewhere, upon across or on the sides of such road, in such situations as to them the said trustees may appear fit or eligible: Provided that nothing in this Act contained shall authorize any toll gate, turnpike, side bar, or chain, to be erected or built in any place or places where it is or may be provided by

any local turnpike Act there shall be no turnpike, toll gate, side bar, or chain erected built or placed.

VI. And be it further enacted, That so much of the said recited Act of the third year of the reign of his present Majesty as directs the payment and recovery of any sum or sums of money to be subscribed or agreed to be advanced for the making or maintaining of any turnpike road, shall be and the same is hereby repealed.

VII. And be it further enacted, That the several and respective persons who shall subscribe for or agree to advance any money for or towards the making or maintaining any turnpike road or roads, or highway intended to be made turnpike, shall and they are hereby required to pay the sum or sums of money so subscribed, within such time or times, and in such parts and proportions, as shall be expressed in the writing which shall be subscribed by them or on their behalf, or as the trustees of any such turnpike road shall order and direct; and the same shall be demanded by and paid to such person or persons as the said trustees shall by any writing under their hands authorize to receive the same; and if any person or persons shall neglect or refuse to pay the same, or any part thereof, as aforesaid, it shall be lawful for the said trustees to sue for the same in the name of any one of such trustees or of their treasurer or clerk, and to recover the same, together with full costs of suit, in any of his Majesty's Courts of Record, by action of debt or on the case, by bill, plaint, suit, or information, wherein no essoign protection or wager of law, nor more than one imparlance, shall be allowed; and all such monies shall be vested in the said trustees, and applied as in the Act for making or maintaining any such turnpike road or roads shall be mentioned.

VIII. And be it further enacted, That so much of the said recited Act of the third year of the reign of his present Majesty as authorizes the trustees of any turnpike road to make, divert, shorten, vary, alter, and improve any such road, shall be and the same is hereby repealed.

IX. And be it further enacted, That it shall be lawful for the trustees of any turnpike road, and they are hereby authorized and empowered, (subject to the restrictions in the said recited Acts and this Act contained,) to make, divert, shorten, vary, alter, and improve the course or path of any of the several and respective roads under their care and management, or of any part or parts thereof; and to divert, shorten, vary, alter, and improve the course or path of any of the said several and respective roads, or any part or parts thereof, upon, in, through, or over any private lands grounds or hereditaments making or tendering satisfaction to the owners thereof and persons interested therein for the same, or for any damage they may sustain thereby; and also upon, in, over, or through any common or waste lands, without making any satisfaction for such common or waste lands, in such manner as they shall think proper; so that any such road shall not exceed sixty feet in width, together with such footpath, causeways, bridges, arches, banks, culverts, ditches, drains, and fences on the line of such road, as they shall think necessary or expedient; and it shall also be lawful for such trustees, and for their surveyors or surveyor and workmen, with or without carts or carriages, from time to time to enter upon the lands and grounds or hereditaments through which or whereupon such road, footpath, causeways, bridges, arches, banks, culverts, ditches, drains, and fences is or are intended to be made or pass, and also upon any adjoining lands or grounds, to stake out the same in such manner as such trustees shall think necessary or expedient, without being deemed a trespasser or trespassers, and without being subject or liable to any fine penalty or punishment for entering or continuing upon such lands or premises respectively, for any of the purposes of the Act, for making or maintaining any such turnpike road; and if any person shall pull up remove or destroy any stakes or other marks used for the purposes aforesaid, every person so offending shall forfeit and pay for every such offence any sum not exceeding five pounds.

X. And be it further enacted, That where, at the time of the expiration or repeal of any Act for making and maintaining any turnpike road, any monies which may have been borrowed subscribed or advanced under the

No. XIX.

9 Geo. IV.

c. 77.

So much of
Money, repealed.
Recovery of
Subscriptions.

So much of
3 G. 4. c. 126.
as authorizes the
shortening of
Roads, repealed.
Trustees may
shorten vary
and alter
Roads.

Mortgages under former Act to remain good.

No. XIX.

9 Geo. IV.

c. 77.

**Bonds, Con-
tracts, &c., to
remain in full
Force, notwith-
standing the
Repeal of any
Act.**

**Trustees may
cancel Mort-
gages under
former Acts,
and execute
others.**

**Trustees may
renew Mort-
gages, &c., lost
or mislaid.**

**Persons em-
ployed under
former Acts to
deliver up
Books, &c.**

**Officers to hold
their Offices
after any Act is
repealed, unless
moved by
votes.**

provisions of such Act shall be due and owing on the credit of the tolls thereby granted, the term and tolls to be granted by all and every subsequent Act and Acts for maintaining such turnpike road shall be and the same are hereby made subject and liable to the payment of the monies which shall so remain due and owing on the credit of such tolls, and of all interest to grow due thereon, as fully and effectually to all intents and purposes, as if such monies had been borrowed or become due on the credit or security of the tolls to be granted by such subsequent Act or Acts; and all and every person and persons who may owe or be subject or liable to the payment of any sum or sums of money to the trustees for carrying any such former Act into execution, shall be liable to the payment thereof to the trustees for executing any such subsequent Act or Acts, and such monies shall be applied by them for the purposes of such subsequent Act or Acts.

XI. And be it further enacted, That all conveyances, bonds, covenants, agreements, contracts and securities, made or entered into by any person or persons to or with the trustees for carrying any local turnpike Act into execution, or by any other person or persons on behalf of the said trustees, according to the provisions of any such Act, shall remain in full force and effect, notwithstanding the expiration or repeal of such Act, and shall be and continue available in all courts, and before all judges and justices having jurisdiction, as the case may require, until the same are fully satisfied and performed, on account and for the benefit of the trust to be created by any subsequent Act for maintaining the same turnpike road, or any part thereof.

XII. And be it further enacted, That the trustees appointed by virtue of any local turnpike Act may receive in and cancel all or any of the mortgages granted under the trusts of any former Act for the same turnpike road, or any part thereof, and instead and in lieu thereof give and execute another mortgage or other mortgages, at the expence of the parties requiring the same.

XIII. And be it further enacted, That in all cases where it shall appear by the books kept by the clerk or treasurer to the trustees of any turnpike road, or by any satisfactory evidence adduced at any meeting of such trustees, that any person or persons is or are a creditor or creditors on security of the tolls authorized by any local turnpike Act to be taken, and that the mortgage or assignment of the tolls for securing any such sum or sums of money has been lost mislaid or by accident destroyed, it shall and may be lawful for the said trustees, or any three or more of them, to execute, at the expence of the person or persons applying for the same, an assignment of the tolls by any such local turnpike Act granted, for the sum or sums of money mentioned in such original assignment or transfer; and every assignment to be executed shall be valid and effectual for the purposes thereby intended.

XIV. And be it further enacted, That all persons who may be or shall have been employed, or who shall have received any tolls or other money on account of or for the purposes of any Act for making or maintaining any turnpike road which may have expired or been repealed, or who may have or shall have had in their custody or possession any money, books, papers, writings, or other things relating to any such turnpike road, shall account for and pay and deliver over the same, and every part thereof, to the trustees for executing any subsequent Act for maintaining such turnpike road, in like manner and under the like penalties as the several collectors and other persons receiving any money by virtue of the said recited Acts of the third and fourth years of the reign of his present Majesty, and of any local turnpike Act, are by the said recited Acts of the third and fourth years of the reign of his present Majesty required to pay or account for the same.

XV. And be it further enacted, That the treasurer, if appointed consistently with the provisions of the said recited Acts of the third, fourth, and seventh, and eighth years of the reign of his present Majesty, and each and every clerk, receiver, collector, surveyor, and other officer, appointed under or employed in the execution of any Act for making or

maintaining any turnpike road, which may have expired or been repealed, shall hold and enjoy such their several and respective offices and employments until removed therefrom respectively by the trustees for executing any subsequent Act for maintaining the same turnpike road; and each and every such treasurer, clerk, receiver, collector, surveyor, and other officer, shall have the like powers and authorities for the purpose of any such subsequent Act, and shall be subject and liable to the like pains and penalties, and to the like powers of removal, and to the like rules and regulations in all respects whatsoever, as if he or they had been appointed under or by virtue of such subsequent Act.

Tolls to be collected.

XVI. And be it further enacted, That it shall and may be lawful for the trustees of any turnpike road, or any person appointed or continued to be appointed collector of the tolls to be taken by virtue of any local turnpike Act, to demand and take every day, (such day, for the purposes of all local turnpike Acts, being computed from twelve of the clock at night to twelve of the clock of the next succeeding night,) the several and respective toll gates and turnpikes, or side bars and chains, which are or shall be continued or erected by virtue of this Act, or of any local turnpike Act, in, upon, across, or on the sides of any turnpike road, or any part or parts thereof; and which tolls or sums of money shall be demanded and taken as aforesaid, before any horses cattle or carriage whatsoever shall be permitted to pass through any toll gate or turnpike, or side bar or chain; and the tolls or sums of money to be levied and collected by virtue of any local turnpike Act shall be and the same are hereby vested in the trustees of such Act for the purposes thereof, in manner to be thereby directed.

Penalty for claiming Exemptions not being entitled thereto.

XVII. And be it further enacted, That if any person or persons shall claim or take the benefit of any of the exemptions mentioned in any local turnpike Act, not being entitled to the same, every such person shall, for every such offence, forfeit any sum not exceeding five pounds; and in all cases the proof of exemption shall be upon the person claiming the same.

Actions to be brought within Six Months.

XVIII. And be it further enacted, That no person or persons shall or may be convicted of any offence or offences contrary to the provisions of this Act, or of the said recited Acts, or of any local turnpike Act, in a summary way, before any justice or justices of the peace, after the expiration of six months from the time when any such offence or offences shall or may have been committed.

Power of former Acts extended to this Act.

XIX. And be it further enacted, That all the powers, authorities, clauses, provisions, penalties, matters, and things contained in the said Acts of the third fourth and seventh and eighth years of the reign of his present Majesty, (save and except such parts thereof respectively as are varied altered or repealed,) shall extend and be construed to extend to this Act; and all the powers, authorities, clauses, penalties, forfeitures, matters, and things contained in the said Acts of the third fourth and seventh and eighth years of the reign of his present Majesty, (except such parts thereof respectively as are varied altered or repealed,) and all the powers, authorities, clauses, provisions, penalties, matters, and things contained in this Act, shall extend and be construed to extend to every local turnpike Act, and shall be applied and put in execution as fully and effectually, to all intents and purposes, as if the same were repeated and re-enacted in the body of such local turnpike Act, and were made part thereof; and that the said recited Acts and this Act shall not be recited in any such local turnpike Act, save and except as to such powers, authorities, clauses, provisions, penalties, matters, and things as shall be expressly referred to for the purpose of being varied altered or repealed by any such local turnpike Act.

Powers of this Act to extend to all local Turnpike Acts.

Acts not to be recited unless for the Purpose of being altered.

This Act not to extend to the Commercial Road, (9 G. 4. c. 112.) or the Road from Glasgow to Isle, (56 c. 83. &c.

XX. Provided always, and be it further enacted, That nothing in this Act or in the said recited Acts contained shall extend, or be construed, adjudged, deemed, or taken to extend, to the turnpike road called the *Commercial Road*, or the several branches leading from and out of the same, authorized to be made repaired and maintained under and by virtue of an Act passed in this session of Parliament, intituled *An Act for more effectually repairing and improving the several Roads called the Cannon*

No. XX.
10 Geo. IV.
c. 13.

*Street Roads, the Commercial Road, the Horseferry Branch of Road, the East India Dock Road, the Barking Road, and the Shadwell and Mile End Branch of Road, in the Counties of Middlesex and Essex; and for laying down a Stoneway on the said Commercial East India Dock and Barking Roads; or to affect, encroach upon, vary, alter, or interfere with any of the tolls weights or duties created by virtue of such Act, or any of the powers and authorities given to or vested in the trustees acting under or by virtue of such Act; nor shall extend or be deemed construed or taken to extend, to an Act passed in the fifty-sixth year of the reign of his said late Majesty, intituled *An Act for improving the Road from the City of Glasgow to the City of Carlisle*, or to three several Acts amending the same, passed in the fifty-eighth and fifty-ninth years of the reign of his said late Majesty, and in the first and second years of the reign of his present Majesty.*

[No. XX.] 10 George IV. c. 13.—An Act to provide for Monies paid into Court under Acts afterwards repealed.
—[13th April 1829.]

WHEREAS under the Provisions of various Acts heretofore passed, relating to turnpike roads, canals, bridges, and other works, monies paid for the purchase of lands, houses, buildings, or other property taken for the purposes of such Acts, or as a compensation for damage occasioned in effecting the objects of such Acts, or on other accounts, have been paid into the Bank of *England* in the name and with the privity of the accountant-general of the High Court of Chancery, or of the accountant-general of the Court of Exchequer, to the intent that such monies might be applied and disposed of, under the directions and with the approbation of the said Court of Chancery or Court of Exchequer, in the manner in the said Acts respectively mentioned; and such Acts have been afterwards repealed by subsequent Acts, without any provision being made by such subsequent Acts with regard to the monies then already paid into the bank under the Acts so repealed; and, from the want of such provision, doubts have occurred with respect to the application of such monies, and the powers of the said Court of Chancery or Court of Exchequer with regard to the same, which doubts it is desirable to remove: May it therefore please your Majesty that it may be enacted; and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That in all cases where any money shall have been paid, or shall hereafter be paid, into the Bank of *England* in the name and with the privity of the accountant-general of the Court of Chancery, or of the accountant-general of the Court of Exchequer, under the provisions of any Act heretofore repealed or hereafter to be repealed, such money shall be paid applied and disposed of in the same manner as it would have been, and the said Court of Chancery or Court of Exchequer, as the case may be, shall have the same jurisdiction and authority, with respect to the payment application and disposal of the said money, and for all purposes relating thereto, as it would have had, in case the Act under which the same was so paid into the Bank of *England* had not been in any manner repealed; and where by any such Act power shall have been given to the said Court of Chancery or Court of Exchequer to order the expences of any purchases to be made with such money, or any part thereof, or the necessary costs and charges of obtaining the order for the same to be paid by the trustees or commissioners acting in execution of such Act, it shall be lawful for the said Court of Chancery or Court of Exchequer, as the case may be, to order such expences costs and charges, or such of them, or such part or parts thereof respectively as to the said court shall seem reasonable, to be paid by the trustees or commissioners acting in execution of the Act by which such former Act shall have been repealed, if there shall be any such trustees or commissioners having monies at their disposal which to the said court shall seem properly applicable to such purpose.

Money paid into the Bank under any repealed Act shall be applied, and the Authority of the Courts of Chancery and Exchequer exercised, as if such Act had not been repealed.

Courts may make Orders as to Expences of Purchases.

P A R T . VI.

CLASS XXIII.

PART VI.

CLASS XXIII.

Justices of Peace.

[No. I.] 1 Edward III. Stat. 2. c. 16.—Who shall be assigned Justices and Keepers of the Peace.

1 Edw. III.
stat. 2. c. 16.

‘ITEM, for the better keeping and maintenance of the peace the King will, That in every county good men and lawful which be no maintainers of evil or barretors in the country shall be assigned to keep the peace.’

[No. II.] 4 Edward III. c. 2.—The Authority of Justices of Assize, Gaol-delivery, and of the Peace.

4 Edw. III.
c. 2.

‘ITEM, it is ordained, That good and discreet persons other than of the places if they may be found sufficient shall be assigned in all the shires of *England* to take assizes juries and certifications and to deliver the gaols; and that the said justices shall take the assizes juries and certifications and deliver the gaols at the least three times a year and more often, if need be. Also there shall be assigned good and lawful men in every county to keep the peace. And at the time of the assignments mention shall be made that such as shall be indicted or taken by the said keepers of the peace shall not be let to mainprize by the sheriffs nor by none other ministers if they be not mainpernable by the law; nor that such as shall be indicted shall not be delivered but at the common law. And the justices assigned to deliver the gaols shall have power to deliver the same gaols of those that shall be indicted before the keepers of the peace; and that the said keepers shall send their indictments before the justices and they shall have power to inquire of sheriffs gaolers and other in whose ward such indicted persons shall be, if they make deliverance or let to mainprize any so indicted which be not mainpernable, and to punish the said sheriffs gaolers and others if they do any thing against this Act.’

[No. III.] 18 Edward III. Stat. 2. c. 2.—Justices of Peace shall be appointed, and their Authority.

18 Edw. III.
stat. 2. c. 2.

‘ITEM, That two or three of the best of reputation in the counties shall be assigned keepers of the peace by the King’s commission, and at what time need shall be the same with other wise and learned in the law shall be assigned by the King’s commission to hear and determine felonies and trespasses done against the peace in the same counties, and to inflict punishment reasonable according to law and reason and the manner of the deed.’

[No. IV.] 34 Edward III. c. 1.—What Sort of Persons shall be Justices of Peace; and what Authority they shall have.

34 Edw. III.
c. 1.

‘FIRST, That in every county of *England* shall be assigned for the keeping of the peace one lord and with him three or four more of

'the most worthy in the county with some learned in the law, and they shall have power to restrain the offenders rioters and all other barators and to pursue arrest take and chastise them according to their trespass or offence; and to cause them to be imprisoned and duly punished according to the law and customs of the realm and according to that which to them shall seem best to do by their discretions and good advisement; and also to inform them and to inquire of all those that have been pillors and robbers in the parts beyond the sea and be now come again and go wandering and will not labour as they were wont in times past, and to take and arrest all those that they may find by indictment or by suspicion and to put them in prison; and to take of all them that be not of good fame where they shall be found sufficient surety and mainprize of their good behaviour towards the King and his people and the other duly to punish, to the intent that the people be not by such rioters or rebels troubled nor endamaged, nor the peace blemished nor merchants nor others passing by the highways of the realm disturbed nor put in the peril which may happen of such offenders. And also to hear and determine at the King's suit all manner of felonies and trespasses done in the same county according to the laws and customs aforesaid: and that writs of *Oyer* and *Terminer* be granted according to the statutes thereof made, and that the justices which shall be thereto assigned be named by the court and not by the party. And the King will that all general inquiries before this time granted within any seigniories for the mischiefs and oppressions which have been done to the people by such inquiries shall cease utterly and be repealed; and that fines which are to be made before justices for a trespass done by any person be reasonable and just, having regard to the quantity of the trespass and the causes for which they be made.'

No. IV.

34. Edw. III.

c. 1.

Justices of Peace may hear and determine Felonies and Trespasses.

Commissioners of general Inquiries shall cease.

Fine for Trespasses shall be reasonable.

[No. V.] 12 Richard II. c. 10.—How many Justices of Peace there shall be in every County; and how often they shall keep their Sessions.

'ITEM, it is ordained and agreed, That in every commission of the justices of peace there shall be assigned but six justices with the justices of assizes, and that the said six justices shall keep their sessions in every quarter of the year at the least, and by three days if need be, upon pain to be punished according to the discretion of the King's council at the suit of every man that will complain: and they shall inquire diligently amongst other things touching their offices if the said mayors bailiffs stewards constables and gaolers have duly done execution of the said ordinances of servants and labourers beggars and vagabonds and shall punish them that be punishable by the said pain of an hundred shillings by the same pain; and they that be found in default and which be not punishable by the same pain shall be punished by their discretion. And every of the said justices shall take for their wages four shillings the day for the time of their said sessions and their clerk two shillings of the fines and amerciaments rising and coming of the same sessions by the hands of the sheriffs. And that the lords of franchises shall be contributory to the said wages after the rate of their part of fines and amerciaments aforesaid. And that no steward of any lord be assigned in any of the said commissions. And that no association shall be made to the justices of the peace after their first commission. And it is not the intent of this statute that the justices of the one bench or the other nor the serjeants of the law in case that they shall be named in the said commissions shall be bound by force of this statute to hold the said sessions four times in the year as the other commissioners the which be continually dwelling in the country, but that they shall do it when they may best attend it.'

12 Rich. II.
c. 10.

The Wages of the Clerk of the Peace.

No Association of Justices of Peace.

The Judges and Serjeants of the Law shall attend the Sessions as often as they may.

No. VI.
13 Rich. II.
stat. 1. c. 7.

[No. VI.] 13 Richard II. Stat. 1. c. 7.—What Sort of Persons shall be Justices of Peace, and what their Charge is to do.

13 Rich. II.
c. 7.

“ITEM, Whereas it is contained in the last statute made at *Canterbury*, that no steward of any lord shall be assigned in the commission of the justice of peace;” “nevertheless for certain causes shewed in this Parliament it is accorded and assented, That justices of peace shall be made of new in all the counties of *England*, of the most sufficient knights esquires and gentlemen of the law of the said counties, notwithstanding the said statute; and that the said justices be sworn duly without favour to keep and put in execution all the statutes and ordinances touching their offices.”

[No. VII.] 14 Richard II. c. 11.—In every County there shall be Eight Justices of Peace. Their Estreats and Wages.

14 Rich. II.
c. 11.

The Justices
Estreats shall
be double.

What Justices
shall be allow-
ed no Wages.

“ITEM, That in every county be assigned eight justices of peace, as is contained in the statute of *Canterbury*, besides the lords assigned in this Parliament: and that the estreats of the said justices be doubled, and the one part delivered by the said justices to the sheriff to levy the money thereof, rising and thereof to pay to the justices and their clerks their wages by the hand of the said sheriff by indenture betwixt them thereof to be made; and that the sheriffs have allowance in their account in the Exchequer by the same indenture: and that no duke earl baron or baneret, albeit they be assigned justices of the peace and hold their sessions with the other eight justices, shall take any wages for the said office. And that the justices who hold their sessions put their names and the names of their clerks in the same estreats, together with the number of the days of their sessions, to the intent that the sheriffs may know to whom to pay the wages and to whom not; and the barons of the Exchequer to whom to allow and to whom not: and that the seals be made for the servants and delivered to the keeping of some good man of the country after the purport of the said statute of *Canterbury*, which statute, with the modification of the same made at the last Parliament, and the statute of weights and measures and all other good statutes and ordinances made heretofore, and not repealed, shall be holden and kept and put in due execution.”

A Seal for Ser-
vants.

[No. VIII.] 2 Henry V. Stat. 2. c. 1.—What Sorts of Men shall be Justices of the Peace.

2 Henry V.
stat. 2. c. 1.

FIRST, That the justices of the peace from henceforth to be made within the counties of *England* shall be made of the most sufficient persons dwelling in the same counties by the advice of the chancellor and of the King's council, without taking other persons dwelling in foreign counties to execute such office, except the lords and the justices of assizes now named and to be named by the King and his council, and except all the King's chief stewards of the lands and seigniories of the duchy of *Lancaster* in the north parts and in the south for the time being.

[No. IX.] 11 Henry VI. c. 6.—No Suit pending before any Justices, &c. shall be discontinued by a new Commission.

11 Henry VI.
c. 6.

“ITEM, Our lord the King considering the great losses and damages which oftentimes have come and be likely to come hereafter as well to himself as to many of his lieges, for that where as well divers indict-

ments and suits for our lord the King as other suits between party and party have been taken before divers justices of the peace assigned by several commissions of our said Lord the King in divers counties of *England*, and divers pleas and processes upon those indictments have often been made and hanging before the same justices not determined, the which pleas and processes have been often discontinued by making of new commissions of the peace in those counties to the great loss of our said Lord the King and of his subjects, in delay of the same pleas and suits and of the deliverance of his said subjects: and upon that our Lord the King willing to provide remedy, of the assent and authority aforesaid hath ordained and established, That in all such pleas suits and processes in them to be taken and to be made before justices of the peace in any county of *England*, the said pleas and processes in such suits to be done shall not be discontinued by such new commissions of the peace to be made, but those pleas and processes shall stand in their force. And the justices in the same new commissions so assigned, after that they shall have the records of the same pleas and processes before them, shall have power and authority to continue the said pleas and processes; and the same pleas and processes and all that depend upon them to hear and finally to determine as the other justices might and ought to have done of and in the same if no new commission had been made.

No. IX.

11 Hen. VI.
c. 6.

[No. X.] 1 Mary, Sess. 2. c. 8.—An Act that Sheriffs shall not be Justices of Peace during that Office.

WHERE in one Act of Parliament, intituled "An Act for the Continuance of Actions after the Death of any King," made in the first year of our late sovereign Lord King *Edward* the Sixth, amongst other things it is ordained and enacted, That albeit any person or persons being justice of assize justice of gaol delivery or justice of peace within any of the King's dominions or being in any other of the King's commissions whatsoever, shall fortune to be made duke archbishop marquis earl viscount baron bishop knight justice of the one bench or of the other or serjeant at the law or sheriff, yet that notwithstanding he and they should remain justice and commissioner and have full power and authority to execute the same in like manner and form as he or they might or ought to have done before the same as in the said Act more plainly appeareth: (2) Sithence the making of which Act divers persons being in commission of the peace in one county have been made sheriffs of the same county and have exercised either of the said offices, which seemeth not to be convenient:

1 Mary, sess. 2.
c. 8.

12 Ed. 4. c. 1.

No Sheriff
shall be Justice
of Peace where
or when he is
Sheriff.

II. Wherefore be it enacted by the authority of this present Parliament, That no manner of person or persons having using or exercising the office of the sheriff of any county or counties shall use or exercise the office of the justice of the peace by force of any commission or otherwise in any county or counties where he or they shall be sheriff during the time only that he or they shall use or exercise the said office of sheriffwick: any thing in the said former Act to the contrary in any wise notwithstanding. And that all and every act and acts to be done by any such sheriff and sheriffs by authority of any commission of the peace during the time abovesaid shall be void and of none effect; the said former Act notwithstanding.

[No. XI.] 2 & 3 Philip and Mary, c. 18.—An Act touching Commissions of the Peace and of Gaol-delivery, in Towns Corporate not being Counties.

WHERE the King and Queen's most excellent Highness and their noble progenitors, kings of this realm, have heretofore granted their several commissions directed as well unto the mayors recorders and other grave men, and inhabitants of certain ancient and famous cities and towns corporate within this realm of *England* not being counties in

2 & 3
Philip & Mary,
c. 18.

19 H. 7. c. 7.

No. XI.
Sect. 3
Phil. & M.
c. 18.

themselves, as also unto divers other worshipful and learned men dwelling out of the same cities and towns corporate, as well for the keeping of their peace good ordering of their people and executing of their laws and statutes within the same cities and towns corporate as also for the delivery of their Majesties prisoners remaining in the gaols there; and after the granting of such commissions their Majesties have granted divers other like commissions unto certain worshipful and learned men of the shires lathes rapes ridings and wapentakes of this realm of England for the conservation of their peace and also delivering of their prisoners remaining in their gaols within the same shires lathes rapes ridings and wapentakes; (2) which commissions so bearing a later day have been a *superseas* and clear discharge unto all and singular the said former commissions granted unto the said cities and towns corporate not being counties in themselves; (3) so that the said mayor and other grave and chiefest officers of every such city and town corporate have been charged to sue for the renewing again of such commissions both for the peace and gaol delivery, to the great expences costs and charges of the said mayor and other the inhabitants of such cities and towns corporate and to the great protracting and delay of justice therein in the mean time: For reformation whereof and for the better advancement of justice in the premises;

A Commission of the Peace and Gaol-delivery shall not be a *Superseas* to a former like Commission granted to a City or Town Corporate.
4 Inst. 169.

II. Be it therefore enacted by the King and Queen's Majesties, the Lords Spiritual and Temporal and the Commons in this present Parliament assembled; and by the authority of the same, That all and singular commission and commissions granted or to be granted to any such city or town corporate not being as is aforesaid a county in itself for the keeping of their peace and delivery of their prisoners remaining in the gaols of any such city or town corporate not being a county in itself, shall stand remain and be good and available and effectual in the law to all intents constructions and purposes; the granting of any like commission of peace or gaol delivery to any commissioner or commissioners for the conservation of the peace or delivery of the prisoners remaining in the gaol of any shire lathes rape riding or wapentake within this realm of England, bearing date after the said commission or commissions granted as is aforesaid to any such city or town corporate not being as is aforesaid a county in itself to the contrary notwithstanding.

29.

[No. XII.] 9 George I. c. 7.—An Act for amending the Laws relating to the Settlement, Employment, and Relief of the Poor. (1.)

9 George I.
c. 7.

Justices dwelling out of a County may grant Warrants, &c.

III. **AND** for the greater ease of justices of the peace whom his Majesty or his successors hath or shall by commission authorize to act as a justice of the peace for any county of this realm, Be it enacted by the authority aforesaid, That if any such justice of the peace shall happen to dwell in any city or other precinct that is a county of itself situate within the county at large for which he shall be appointed justice of peace although not within the same county, it shall and may be lawful for any such justice of peace to grant warrants take examinations and make orders for any matters which any one or more justice or justices of the peace may act in; at his own dwelling-house, although such dwelling-house be out of the county where he is authorized to act as a justice of peace, and in some city or other precinct adjoining that is a county of itself; and that all such warrants orders and other act or acts of any justice of peace, and the act or acts of any constable tithingman headborough overseer of the poor surveyor of the highways or other officer in obedience to any such warrant or order, shall be as valid good and effectual in the law although it happen to be out of the limits of the proper precinct or authority: Provided always, That nothing in this Act contained shall extend to give

power to the justices of peace for the counties at large to hold their general quarter sessions of the peace in the cities or towns which are counties of themselves, nor to empower justices of peace sheriffs bailiffs constables headboroughs tithingmen boroughers or any other peace-officers of the counties at large to act or intermeddle in any matters or things arising within cities or towns which are counties of themselves, but that all such actings and doings shall be of the same force and effect in law and none other as if this Act had never been made.

No. XII.

9 Geo. II.

c. 7.

[No. XIII.] 5 George II. c. 18.—An Act for the further Qualification of Justices of the Peace.

‘ WHEREAS the constituting persons of mean estates to be justices of the peace may be highly prejudicial to the publick welfare;’ Be it therefore enacted by the King’s most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That from and after the twenty-fifth day of March one thousand seven hundred and thirty-three no person shall be capable of being a justice of the peace or to act as a justice of the peace for any county within that part of *Great Britain* called *England* or the principality of *Wales* who shall not have an estate of freehold or copyhold to and for his own use and benefit in possession for life or for some greater estate either in law or equity or an estate for years determinable upon one or more life or lives or for a certain term originally created for one and twenty years or more in lands tenements or hereditaments lying in that part of *Great Britain* called *England* or principality of *Wales* of the clear yearly value of one hundred pounds over and above what will satisfy and discharge all incumbrances that may affect the same.

II. And be it further enacted by the authority aforesaid, That no attorney solicitor or proctor in any court whatsoever shall from and after the said twenty-fifth day of March one thousand seven hundred and thirty-three be capable to continue or be a justice of the peace within any county for that part of *Great Britain* called *England* or the principality of *Wales* during such time as he shall continue in the business and practice of an attorney solicitor or proctor.

III. And be it further enacted by the authority aforesaid, That if any person who shall not be qualified according to the directions of this Act shall after the said twenty-fifth day of March one thousand seven hundred and thirty-three accept or take upon himself the office of a justice of the peace or shall do any act as such, the person so offending shall for every such offence forfeit and pay the sum of one hundred pounds; one moiety whereof shall be to the King’s Majesty his heirs and successors, and the other moiety to such person or persons as will sue for the same by action of debt bill plaint or information in any of his Majesty’s courts of record at *Westminster* in which noessoign protection wager of law or more than one imparlance shall be allowed.

IV. Provided always, That this Act or any thing herein contained shall not extend or be construed to extend to any city or town being a county of itself or to any other city town cinque port or liberty having justices of the peace within their respective limits and precincts by charter commission or otherwise; but that in every such city town liberty and place such persons may be capable to be justices of the peace and in such manner only as they might have been if this Act had never been made; any thing herein-before contained to the contrary thereof in anywise notwithstanding.

V. Provided always, That nothing in this Act contained shall extend to incapacitate any peer or lord of Parliament or the eldest son or heir apparent of any peer or lord of Parliament or of any person qualified to serve as knight of a shire by an Act, intituled “An Act to secure the Freedom of Parliaments by the further qualifying Members to sit in the House of Commons,” to be a justice of the peace for any county or to act as

5 George II.
c. 18.Assented by
18 Geo. 2.
c. 20.No Persons to
be Justices who
have not 100l.
a year clear of
Incumbrances.Attornies, So-
licitors and
Proctors inca-
pacitated.Persons acting
as Justices not
so qualified, to
forfeit 100l.Not to extend
to Cities
which are
Counties, or
other Places
having Justices
by Charter,nor to the
eldest Sons of
Peers, or of
Knights of
Shires, 9 Ann,
c. 5.

No. XIII.

5 Geo. II.

c. 18.

nor to the
Board of Green
Cloth, or principal
Officers of the Navy,

nor to Heads of
Colleges in
either University.

7 Geo. 2. c. 10.

§ 3.

such; any thing herein contained to the contrary thereof in anywise notwithstanding.

VI. Provided also, That nothing in this Act contained shall extend or be construed to extend to incapacitate or exclude the officers of the Board of Green Cloth from being justices of the peace within the verge of his Majesty's palaces or to incapacitate or exclude the commissioners and principal officers of the navy or the two under secretaries in each of the offices of principal secretary of state from being justices of the peace in and for such maritime counties and places where they usually have been justices of the peace: any thing herein contained to the contrary in anywise notwithstanding.

VII. Provided always, That this Act nor any thing herein contained shall extend or be construed to extend to any of the heads of colleges or halls in either of the two universities of *Oxford* and *Cambridge*, but that they may be made justices of the peace of and in the several counties of *Oxford Berks* and *Cambridge* and the cities and towns within the same and execute the office thereof as fully and freely in all respects as heretofore they have lawfully used to execute the same as if this Act had never been made; any thing herein-before contained to the contrary notwithstanding.

[No. XIV.] 16 George II. c. 18.—An Act to empower Justices of the Peace to act in certain Cases relating to Parishes and Places, to the Rates and Taxes of which they are rated or chargeable.

16 George II.
c. 18.

15 Geo. 2. c. 24.

' WHEREAS doubts have arisen whether according to the laws and statutes now in force his Majesty's Justices of the Peace may lawfully act in any case relating to the parishes or places to the rates and taxes of which such justices respectively are rated or chargeable: May it please your Majesty that it may be enacted; and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That it shall and may be lawful to and for all and every justice or justices of the peace for any county riding city liberty franchise borough or town corporate within their respective jurisdictions to make do and execute all and every act or acts matter or matters thing or things appertaining to their office as justice or justices of the peace so far as the same relates to the laws for the relief maintenance and settlement of poor persons; for passing and punishing vagrants; for repair of the highways; or to any other laws concerning parochial taxes levies or rates; notwithstanding any such justice or justices of the peace is or are rated to or chargeable with the taxes levies or rates within any such parish township or place affected by any such act or acts of such justice or justices as aforesaid.

No Act of Justices heretofore done, shall be made void, because themselves are rated.

II. And be it further enacted by the authority aforesaid, That no act or acts matter or matters thing or things which hath or have been before the making this Act done made or executed by any such justice or justices of the peace shall hereafter be quashed or declared void because the same hath or have been so made done or executed by any such justice or justices so rated or chargeable as aforesaid; any law usage or custom whatsoever to the contrary notwithstanding.

III. Provided always and be it further enacted by the authority aforesaid, That this Act or any thing therein contained shall not authorise or empower any justice or justices of the peace for any county or riding at large to act in the determination of any appeal to the quarter sessions for any such county or riding from any order matter or thing relating to any such parish township or place where such justice or justices of the peace is or are so charged taxed or chargeable as aforesaid; any thing herein contained to the contrary in anywise notwithstanding.

[No. XV.] 18 George II. c. 20.—An Act to amend and render more effectual an Act passed in the Fifth Year of his present Majesty's Reign, intituled, "An Act for the further Qualification of Justices of the Peace."

No. XV.
18 Geo. II.
c. 20.

18 George II.
c. 20.

No Person to
be a Justice of
Peace not pos-
sessed of 100*l*.
per Annum.

or not entitled
to Reversion of
300*l*. per An-
num,

and who shall
not take and
subscribe the
following Oath.

' Amended
by 19 Geo. 2.
c. 13.'

Oath.

' WHEREAS by many Acts of Parliament of late years made, the power and authority of justices of the peace is greatly increased, whereby it is become of the utmost consequence to the commonweal to provide against persons of mean estate acting as such: And whereas the laws now in force are not sufficient for that purpose; Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That from and after the twenty-fifth day of *March* which shall be in the year of our Lord one thousand seven hundred and forty-six no person shall be capable of being a justice of the peace or of acting as such for any county riding or division within that part of *Great Britain* called *England* or the principality of *Wales* who shall not have either in law or equity to and for his own use and benefit in possession a freehold copyhold or customary estate for life or for some greater estate or an estate for some long term of years determinable upon one or more life or lives or for a certain term originally created for twenty-one years or more in lands tenements or hereditaments lying or being in that part of *Great Britain* called *England* or the principality of *Wales* of the clear yearly value of one hundred pounds over and above what will satisfy and discharge all incumbrances that affect the same and over and above all rents and charges payable out of or in respect of the same; or who shall not be seised of or entitled unto in law or equity to and for his own use and benefit the immediate reversion or remainder of and in lands tenements or hereditaments lying or being as aforesaid which are leased for one two or three lives or for any term of years determinable upon the death of one two or three lives upon reserved rents and which are of the clear yearly value of three hundred pounds; and who shall not before the said twenty-fifth day of *March* or before he takes upon himself to act as a justice of peace after the said twenty-fifth day of *March* at some general or quarter sessions for the county riding or division for which he does or shall intend to act, first take and subscribe the oath following, *videlicet*;

' I *A. B.* do swear, That I truly and *bona fide* have such an estate in law or equity to and for my own use and benefit consisting of (specifying the nature of such estate, whether messuage land rent tythe office benefice or what else) as doth qualify me to act as a Justice of the Peace for the county riding or division of according to the true intent and meaning of an Act of Parliament made in the eighteenth year of the reign of his Majesty King *George* the Second, intituled "An Act to amend and render more effectual an Act passed in the Fifth Year of his present Majesty's Reign, intituled 'An Act for the further Qualification of Justices of the Peace,'" and that the same (except where it consists of an office benefice or ecclesiastical preferment which it shall be sufficient to ascertain by their known and usual names) is lying or being, or issuing out of lands tenements or hereditaments being within the parish township or precinct of or in the several parishes townships or precincts of in the county of or in the several counties of (as the case may be.)'

Which oath so taken and subscribed as aforesaid shall be kept by the clerk of the peace of the said county riding or division for the time being among the records of the sessions for the said county riding or division. Oath to be recorded.

II, And be it further enacted by the authority aforesaid, That every such clerk of the peace shall upon demand for that purpose made forth- Copy of Oath to be given for 2*s*.

No. XV.
18 Geo. II.
c. 30.

and admitted in
Evidence.

Penalty of
100*l*.

Proof of Quali-
fication on the
Defendant.

Defendant to
specify Lands,
(not contained
in his Oath), in
a written No-
tice.

Lands not men-
tioned not to be
allowed.

Lands men-
tioned, how far
chargeable with
Incumbrances.

Qualification
by Rent only.

Treble-Costs.

with deliver a true and attested copy of the said oath in writing to any person paying for the same the sum of two shillings and no more; which being proved to be a true copy of such oath to be kept amongst the records as aforesaid, shall be admitted to be given in evidence upon any issue in any action suit or information to be brought upon this Act.

III. And be it further enacted by the authority aforesaid, That from and after the said twenty-fifth day of *March* any person who shall act as a justice of the peace for any county riding or division within that part of *Great Britain* called *England* or the principality of *Wales* without having taken and subscribed the said oath as aforesaid, or without being qualified according to the true intent and meaning of this Act, shall for every such offence forfeit the sum of one hundred pounds; one moiety to the use of the poor of the parish in which he most usually resides, and the other moiety to the use of such person or persons who shall sue for the same, to be recovered together with full costs of suit by action of debt bill plaint or information in any of his Majesty's courts of record at *Westminster*, in which no essoin protection wager of law or more than one imparlance shall be allowed; and in every such action suit or information the proof of his qualification shall lie on such person against whom the same is brought.

IV. Provided always and be it further enacted by the authority aforesaid, That if the defendant in any such action suit or information shall intend to insist upon any lands tenements or hereditaments not contained in such oath as aforesaid as his qualification to act as a justice of peace in part or in the whole at the time of the supposed offence wherewith he is charged, he shall at or before the time of his pleading deliver to the plaintiff or informer or his attorney a notice in writing specifying such lands tenements and hereditaments (other than those contained in the said oath) and the parish township precinct or place or parishes townships precincts or places and the county or counties wherein the same are respectively situate lying or being (offices and benefices excepted, which it shall be sufficient to ascertain by their known and usual names) and if the plaintiff or informer in any such action suit or information shall think fit thereupon not to proceed any further he may with the leave of the court discontinue such action suit or information on payment of such costs to the defendant as the court shall award.

V. Provided also and it is hereby further enacted by the authority aforesaid, That upon the trial of the issue in any action suit or information to be brought as aforesaid, no lands tenements or hereditaments which are not contained in such oath and notice as aforesaid or one of them shall be allowed to be insisted upon by the defendant as any part of his qualification.

VI. And be it further enacted and declared by the authority aforesaid, Where the lands tenements or hereditaments contained in the said oath or notice are together with other lands tenements and hereditaments belonging to the person taking such oath or delivering such notice liable to any charges rents or incumbrances, that within the true intent and meaning and for the purposes of this Act the lands tenements and hereditaments contained in the said oath or notice shall be deemed and taken to be liable and chargeable only so far as the other lands tenements and hereditaments so jointly charged are not sufficient to pay satisfy or discharge the same.

VII. Provided always, That where the qualification required by this Act or any part thereof consists of rent it shall be sufficient to specify in such oath or notice as aforesaid so much of the lands tenements or hereditaments out of which such rent is issuing as shall be of sufficient value to answer such rent.

VIII. Provided always and be it enacted by the authority aforesaid, That in case the plaintiff or informer in any such action suit or information shall discontinue the same otherwise than as aforesaid or be nonsuit or judgment be otherwise given against him, that then and in any of the said cases the person against whom such action shall have been brought shall recover treble costs.

IX. Provided always and be it further enacted by the authority aforesaid, That only one penalty of one hundred pounds shall be recovered from the same person by virtue of this Act or of an Act made in the fifth year of the reign of his present Majesty, intituled, "An Act for the further Qualification of Justices of the Peace," for the same or any other offence committed by the same person before the bringing of the action suit or information upon which one penalty of one hundred pounds shall have been recovered and due notice given to the defendant of the commencement of such action suit or information; any thing in this or the same Act to the contrary notwithstanding.

X. Provided always and be it enacted by the authority aforesaid, That where an action suit or information shall be brought and due notice given thereof as aforesaid, no proceedings shall be had upon any subsequent action suit or information against the same person for any offence committed before the time of giving such notice as aforesaid; but the court where such subsequent action suit or information shall be brought may upon the defendant's motion stay proceedings upon every such subsequent action suit or information so as such first action suit or information be prosecuted without fraud and with effect, it being hereby declared, That no action suit or information which shall not be so prosecuted shall be deemed or construed to be an action suit or information within the intent and meaning of this Act.

XI. Provided always, That every action bill plaint or information given by this or the said former Act shall be commenced within the space of six calendar months after the fact upon which the same is grounded shall have been committed.

XII. Provided always, That this Act or any thing herein contained shall not extend or be construed to extend to any city or town being a county of itself or to any other city town cinque-port or liberty having justices of the peace within their respective limits and precincts by charter commission or otherwise; but that in every such city town liberty and place such persons may be capable to be justices of the peace, and in such manner only as they might have been if this Act had never been made; any thing herein before contained to the contrary thereof in anywise notwithstanding.

XIII. Provided always and be it enacted by the authority aforesaid, That nothing in this Act or in an Act passed in the fifth year of his present Majesty's reign, intituled, "An Act for the further Qualification of Justices of the Peace," contained, shall extend to any Peer or Lord of Parliament or to the Lords or others of his Majesty's most honourable Privy Council, or to the Justices of either Bench, or to the Barons of the Court of Exchequer, or to his Majesty's Attorney or Solicitor General, or to the Justices of great sessions for the county palatine of *Chester* and the several counties of the principality of *Wales* within their respective jurisdictions, or to the eldest son or heir apparent of any Peer or Lord of Parliament, or of any person qualified to serve as a Knight of a Shire by an Act made in the ninth year of the reign of her late Majesty Queen *Anne*, intituled, "An Act to secure the Freedom of Parliaments, by the further qualifying Members to sit in the House of Commons;" any thing herein contained to the contrary thereof in anywise notwithstanding.

XIV. Provided also, That nothing in this Act or in the said Act of the fifth year of the reign of his present Majesty contained shall extend or be construed to extend to incapacitate or exclude the officers of the Board of Green Cloth from being justices of the peace within the verge of his Majesty's palaces, or to incapacitate or exclude the commissioners and principal officers of the Navy, or the two under secretaries in each of the offices of Principal Secretary of State, or the secretary of *Chelsea* College, from being justices of the peace in or for such counties or places where they usually have been justices of the peace; any thing herein contained to the contrary in anywise notwithstanding.

XV. Provided always, That this Act or any thing herein contained shall not extend or be construed to extend to any of the heads of colleges or halls in either of the two Universities of *Oxford* or *Cambridge* or to

No. XV.
18 Geo. II.
c. 30.

Only one Penalty recoverable by this and 5 Geo. 2. c. 58.

No subsequent Action to be for Offences prior to the first Action and Notice.

Limitation of Actions.

Places not within this Act.

Persons excepted.

Persons excepted.

Persons excepted.

No. XV.
18 Geo. II.
c. 90.

and admitted in
Evidence.

Penalty of
100*l*.

Proof of Quali-
fication on the
Defendant.

Defendant to
specify Lands,
(not contained
in his Oath), in
a written No-
tice.

Lands not men-
tioned not to be
allowed.

Lands men-
tioned, how far
chargeable with
Incumbrances.

Qualification
by Rent only.

Treble-Costs.

with deliver a true and attested copy of the said oath in writing to any person paying for the same the sum of two shillings and no more; which being proved to be a true copy of such oath to be kept amongst the records as aforesaid, shall be admitted to be given in evidence upon any issue in any action suit or information to be brought upon this Act.

III. And be it further enacted by the authority aforesaid, That from and after the said twenty-fifth day of *March* any person who shall act as a justice of the peace for any county riding or division within that part of *Great Britain* called *England* or the principality of *Wales* without having taken and subscribed the said oath as aforesaid, or without being qualified according to the true intent and meaning of this Act, shall for every such offence forfeit the sum of one hundred pounds; one moiety to the use of the poor of the parish in which he most usually resides, and the other moiety to the use of such person or persons who shall sue for the same, to be recovered together with full costs of suit by action of debt bill plaint or information in any of his Majesty's courts of record at *Westminster*, in which no essoin protection wager of law or more than one imparlance shall be allowed; and in every such action suit or information the proof of his qualification shall lie on such person against whom the same is brought.

IV. Provided always and be it further enacted by the authority aforesaid, That if the defendant in any such action suit or information shall intend to insist upon any lands tenements or hereditaments not contained in such oath as aforesaid as his qualification to act as a justice of peace in part or in the whole at the time of the supposed offence wherewith he is charged, he shall at or before the time of his pleading deliver to the plaintiff or informer or his attorney a notice in writing specifying such lands tenements and hereditaments (other than those contained in the said oath) and the parish township precinct or place or parishes townships precincts or places and the county or counties wherein the same are respectively situate lying or being (offices and benefices excepted, which it shall be sufficient to ascertain by their known and usual names) and if the plaintiff or informer in any such action suit or information shall think fit thereupon not to proceed any further he may with the leave of the court discontinue such action suit or information on payment of such costs to the defendant as the court shall award.

V. Provided also and it is hereby further enacted by the authority aforesaid, That upon the trial of the issue in any action suit or information as aforesaid, no lands tenements or hereditaments which are not contained in such oath and notice as aforesaid or one of them shall be allowed to be insisted upon by the defendant as any part of his qualification.

VI. And be it further enacted and declared by the authority aforesaid, Where the lands tenements or hereditaments contained in the said oath or notice are together with other lands tenements and hereditaments belonging to the person taking such oath or delivering such notice liable to any charges rents or incumbrances, that within the true intent and meaning and for the purposes of this Act the lands tenements and hereditaments contained in the said oath or notice shall be deemed and taken to be liable and chargeable only so far as the other lands tenements and hereditaments so jointly charged are not sufficient to pay satisfy or discharge the same.

VII. Provided always, That where the qualification required by this Act or any part thereof consists of rent it shall be sufficient to specify in such oath or notice as aforesaid so much of the lands tenements or hereditaments out of which such rent is issuing as shall be of sufficient value to answer such rent.

VIII. Provided always and be it enacted by the authority aforesaid, That in case the plaintiff or informer in any such action suit or information shall discontinue the same otherwise than as aforesaid or be nonsuit or judgment be otherwise given against him, that then and in any of the said cases the person against whom such action shall have been brought shall recover treble costs.

IX. Provided always and be it further enacted by the authority aforesaid, That only one penalty of one hundred pounds shall be recovered from the same person by virtue of this Act or of an Act made in the fifth year of the reign of his present Majesty, intituled, "An Act for the further Qualification of Justices of the Peace," for the same or any other offence committed by the same person before the bringing of the action suit or information upon which one penalty of one hundred pounds shall have been recovered and due notice given to the defendant of the commencement of such action suit or information; any thing in this or the same Act to the contrary notwithstanding.

X. Provided always and be it enacted by the authority aforesaid, That where an action suit or information shall be brought and due notice given thereof as aforesaid, no proceedings shall be had upon any subsequent action suit or information against the same person for any offence committed before the time of giving such notice as aforesaid; but the court where such subsequent action suit or information shall be brought may upon the defendant's motion stay proceedings upon every such subsequent action suit or information so as such first action suit or information be prosecuted without fraud and with effect, it being hereby declared, That no action suit or information which shall not be so prosecuted shall be deemed or construed to be an action suit or information within the intent and meaning of this Act.

XI. Provided always, That every action bill plaint or information given by this or the said former Act shall be commenced within the space of six calendar months after the fact upon which the same is grounded shall have been committed.

XII. Provided always, That this Act or any thing herein contained shall not extend or be construed to extend to any city or town being a county of itself or to any other city town cinque-port or liberty having justices of the peace within their respective limits and precincts by charter commission or otherwise; but that in every such city town liberty and place such persons may be capable to be justices of the peace, and in such manner only as they might have been if this Act had never been made; any thing herein before contained to the contrary thereof in anywise notwithstanding.

XIII. Provided always and be it enacted by the authority aforesaid, That nothing in this Act or in an Act passed in the fifth year of his present Majesty's reign, intituled, "An Act for the further Qualification of Justices of the Peace," contained, shall extend to any Peer or Lord of Parliament or to the Lords or others of his Majesty's most honourable Privy Council, or to the Justices of either Bench, or to the Barons of the Court of Exchequer, or to his Majesty's Attorney or Solicitor General, or to the Justices of great sessions for the county palatine of *Cheshire* and the several counties of the principality of *Wales* within their respective jurisdictions, or to the eldest son or heir apparent of any Peer or Lord of Parliament, or of any person qualified to serve as a Knight of a Shire by an Act made in the ninth year of the reign of her late Majesty Queen *Anne*, intituled, "An Act to secure the Freedom of Parliaments, by the further qualifying Members to sit in the House of Commons;" any thing herein contained to the contrary thereof in anywise notwithstanding.

XIV. Provided also, That nothing in this Act or in the said Act of the fifth year of the reign of his present Majesty contained shall extend or be construed to extend to incapacitate or exclude the officers of the Board of Green Cloth from being justices of the peace within the verge of his Majesty's palaces, or to incapacitate or exclude the commissioners and principal officers of the Navy, or the two under secretaries in each of the offices of Principal Secretary of State, or the secretary of *Chelsea* College, from being justices of the peace in or for such counties or places where they usually have been justices of the peace; any thing herein contained to the contrary in anywise notwithstanding.

XV. Provided always, That this Act or any thing herein contained shall not extend or be construed to extend to any of the heads of colleges or halls in either of the two Universities of *Oxford* or *Cambridge* or to

No. XV.

18 Geo. II.
c. 30.

Only one Penalty recoverable by this and 5 Geo. 2. c. 58.

No subsequent Action to be for Offences prior to the first Action and Notice.

Limitation of Actions.

Places not within this Act.

Persons excepted.

Persons excepted.

Persons excepted.

No. XVI

94 Geo. II.

c. 55.

* Clause 23

Geo. 2. c. 26.

§ 12. repealed.

ner as such person or persons might have done in case this Act had not been made.

IV. And it is hereby further enacted, That the said clause in the said recited Act and every thing in the said clause contained shall from and after the said twenty-fourth day of June be repealed.*

[No. XVII.] 26 George II. c. 14.—An Act for the settling and ascertaining the Fees to be taken by Clerks to Justices of the Peace.

26 George II.
c. 14.

Justices to settle
a Table of
Fees to be
taken by their
Clerks;

to be ratified by
the Judges of
Assize.

Justices may
make new Ta-
bles of Fees;
to be ratified in
the same Man-
ner.

By 27 Geo. 2.
c. 16. the Table
in *Middlesex* is
to be ratified by
Chief Justices,
&c.

Penalty of 20l.
on Clerks tak-
ing other Fees.

‘ WHEREAS some doubts have arisen touching the fees due to clerks of justices of the peace: And whereas it would tend to the due execution of the laws and to the ease of the subject, that the fees to be taken by the said clerks should be ascertained;’ Be it therefore enacted by the King’s most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That the justices of the peace throughout that part of *Great Britain* called *England*, at their respective general quarter sessions of the peace to be held next after the twenty-fourth day of *June* one thousand seven hundred and fifty-three, shall and they are hereby required to make and settle a table of the fees which shall be taken by clerks to justices of the peace within the county city or other division for which such respective general quarter sessions shall be held; and such respective tables of fees being approved by the justices of the peace at the next succeeding general quarter sessions of the peace for such county city or other division, with such alterations as such justices of the peace so assembled shall think proper, shall be laid before the judges at the next assizes or at the great sessions for the principality of *Wales* and counties palatine of *Chester Lancaster* and *Durham* for the respective county city or other division; and the said judges are hereby authorised and required to ratify and confirm such respective tables of fees in such manner and form as the same shall be made settled and approved of by the said justices, or with such alterations additions or abatements as to such judges shall appear to be just and reasonable; and it shall and may be lawful for the said justices of the peace in their respective quarter sessions assembled from time to time to make any other table of fees to be taken instead of the fees contained in the table which shall have been ratified and confirmed by the judges of assize; and after the same shall have been approved by the justices of the peace at the next succeeding general quarter sessions in manner as aforesaid, to lay such new table of fees before the judges at the next assizes or at the great sessions for the principality of *Wales* and counties palatine of *Chester Lancaster* and *Durham*, who are hereby empowered and authorised to approve and ratify the same in manner as aforesaid if they think fit; but no table of fees to be made and settled by the said respective justices of peace, shall be of any validity or effect whatsoever until the same shall be ratified and confirmed by the said judges.

II. And be it further enacted by the authority aforesaid, That if at any time after the space of three calendar months from the time that such table of fees shall be made and ratified as aforesaid. any clerk or clerks to any justice or justices of the peace or any person or persons acting as such shall, under pretence of any matter or thing done transacted or performed by such justice or justices in the execution of his or their office or offices, or done transacted or performed by such person or persons as clerk or clerks to such justice or justices, demand or receive any other or greater fee than shall have been ascertained ratified and confirmed in manner as aforesaid, such person shall for every such offence forfeit and pay twenty pounds to any person who shall sue for the same by action of debt bill plaint or information in any of his Majesty’s courts of record at *Westminster*, wherein no essoign privilege protection wager of law or more than one imparlance shall be granted or allowed.

III. And be it further enacted by the authority aforesaid, That all the tables of fees which shall be made and settled and ratified and confirmed from time to time as aforesaid shall be deposited with the clerk of the peace for the respective county city or other division; and each of the said clerks of the peace shall cause true and exact written or printed copies of the said tables to be placed and to be kept constantly in a conspicuous part of the room or place where the general or quarter sessions shall be held; under pain of forfeiting the sum of ten pounds for each offence, to be recovered by action of debt bill plaint or information in any of his Majesty's courts of record at *Westminster*, wherein no essoign privilege protection wager of law or more than one imparlance shall be granted or allowed.

placed in the Room where the Sessions are held, under

IV. Provided always and be it further enacted by the authority aforesaid, That all suits and actions which shall be brought or commenced by virtue of this Act shall be brought before the end of three months after the offence committed, and not otherwise.

No. XVII.

26 Geo. II.

c. 14.

Tables of the Fees to be deposited with the Clerks of the Peace,

and Copies thereof to be Penalty of 10l.

Limitations of Actions.

[No. XVIII.] 26 George II. c. 27.—An Act to confirm certain Acts and Orders made by Justices of the Peace, being of the *Quorum*, notwithstanding any Defect in not expressing therein that such Justices of the Peace are of the *Quorum*.*

WHEREAS authority is given by divers Acts of Parliament to two or more justices of the peace whereof one or more are to be of the *quorum*: And whereas divers acts orders adjudications warrants confirmations of indentures and other instruments done made and executed by two or more justices of the peace without expressing that they are or that one of them is of the *quorum* have been and may be for that reason only impeached set aside and vacated; Be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That from and after the twenty-fourth day of June in the year one thousand seven hundred and fifty-three no Act order adjudication warrant indenture of apprenticeship or other instrument already made done or executed or hereafter to be made done or executed by two or more justices of the peace which doth not express that one or more of the justices is or are of the *quorum* shall be impeached set aside or vacated for that defect only; any law statute or usage to the contrary notwithstanding.

26 George II.
c. 27.

* By 27 Geo. II. c. 16. the Table of Fees for *Middlesex* is to be confirmed by the two Chief Justices and Chief Baron, or any two of them.

[No. XIX.] 1 George III. c. 13.—An Act to amend an Act passed in the Eighteenth Year of the Reign of King George the Second, concerning the Qualification of Justices of the Peace; and for other Purposes therein mentioned.

WHEREAS by an Act of Parliament made in the eighteenth year of his late Majesty King George the Second of glorious memory, intitled "An Act to amend and render more effectual an Act passed in the fifth year of his present Majesty's reign, intitled 'An Act for the further Qualification of Justices of the Peace;'" it was enacted, That from and after the twenty-fifth day of March one thousand seven hundred and forty-six no person should be capable of being a justice of the peace or of acting as such for any county riding or division within that

1 George III.
c. 13.

18 Geo. 2. c. 20.
See 5 Geo. 2.
c. 18.

No. XIX.

1 Geo. III.

c. 13.

' part of *Great Britain* called *England* or the principality of *Wales*, who should not have either in law or equity to and for his own use and benefit in possession a freehold copyhold or customary estate for life or for some greater estate, or an estate for some long term of years determinable upon one or more life or lives, or for a certain term originally created for twenty-one years or more in lands tenements or hereditaments lying or being in that part of *Great Britain* called *England* or the principality of *Wales* of the clear yearly value of one hundred pounds over and above what should satisfy and discharge all incumbrances that affect the same, and over and above all rents and charges payable out of or in respect of the same, or who should not be seized of or intitled unto in law or equity to and for his own use and benefit the immediate reversion or remainder of and in lands tenements or hereditaments lying or being as aforesaid, which were leased for one two or three lives or for any term of years determinable upon the death of one two or three lives upon reserved rents and which were of the clear yearly value of three hundred pounds; and who should not before he takes upon himself to act as a justice of peace after the said twenty-fifth day of *March* at some general or quarter sessions for the county riding or division for which he did or should intend to act first take and subscribe the oath in the said Act mentioned; which oath so taken and subscribed as aforesaid should be kept by the clerk of the peace for the said county riding or division for the time being among the records of the sessions for the said county riding or division: And it was by the said Act further enacted, That from and after the said twenty-fifth day of *March* any person who should act as a justice of the peace for any county riding or division within that part of *Great Britain* called *England* or the principality of *Wales* without having taken and subscribed the said oath as aforesaid or without being qualified according to the true intent and meaning of the said Act should for every such offence forfeit the sum of one hundred pounds, to be recovered with full costs of suit and applied in the manner in the said Act mentioned: And whereas doubts have arisen whether persons who were justices of the peace at the time of the demise of his said late Majesty King *George* the Second and who have been or shall be constituted justices of the peace by or under any commission of the peace granted or which shall be granted by his present Majesty can act as justices of the peace and open and hold any general or quarter sessions of the peace before they shall have taken and subscribed the said oath in manner and at the place as by the said in part recited Act is directed and required, for want of which there may be a failure of the due execution of the laws of this realm: Now for clearing such doubts and preventing any inconveniences that may arise; Be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That all persons who were justices of the peace at the time of the demise of his said late Majesty King *George* the Second, or who shall be justices of the peace at the time of the demise of his present Majesty or any of his successors Kings or Queens of this realm, and shall afterwards be appointed justices of the peace by any commission granted or which shall be granted by his said present Majesty, or which after his demise shall be granted by any of his successors Kings or Queens of this realm, and who shall take the oaths of office of a justice of the peace for any county city and county town and county riding or division before the clerk of the peace of the respective county city and county town and county riding or division for which any such justice or justices of the peace shall act or intend to act, or the deputy of such respective clerk of the peace, and who shall have taken and subscribed at some general or quarter session of the peace the said oath by the said herein-before in part recited Act of the eighteenth year of his said late Majesty's reign directed and required to be there taken and subscribed, shall and may act as a justice

All who were Justices at the Demise of the late King, or shall be such at the Demise of his present Majesty, &c. and being afterwards in the Commission of the Peace, shall take the Oaths of Office before the Clerk of the Peace; and those who

shall have taken and subscribed at the Quarter Sessions the Oath required by the recited Act of 18 G. 2. may act as Justice, without taking and subscribing again the Oath aforesaid.

of the peace for such county city and county town and county riding or division without being obliged to take and subscribe again the said oath without incurring any penalty or forfeiture for the not taking and subscribing thereof; the said herein-before in part recited Act or any other statute law or usage to the contrary thereof in any wise notwithstanding: And that all acts matters and things done or to be done by all and every such justice and justices or by authority derived or to be derived from him or them are and shall be deemed and taken to all intents and purposes to be of the same force effect and validity to all intents and purposes as the same respectively would have been if such person or persons had taken and subscribed such oath by the said herein-before in part recited Act required to be taken and subscribed at some general or quarter session for such county city and county town and county riding or division for which he or they did or should act or intend to act.

II. And be it further enacted by the authority aforesaid, That from and after the passing of this Act no person who hath already taken or shall hereafter take the oaths usually taken by a justice of the peace under a writ or commission of *Dedimus Potestatem*, issued or which shall be issued from the clerk of the Crown, shall be obliged or compellable to sue out or have any other *Dedimus Potestatem* from the said clerk of the Crown to authorise any person or persons therein to be named to administer again to any such justice on any new commission of the peace being issued under the great seal of *Great Britain* for any county city and county town and county riding or division in *England* or *Wales* the oaths usually annexed to such *Dedimus* and taken by a justice of the peace; but that the clerk of the peace or his deputy of every county city and county town and county riding or division in *England* and *Wales* for which any such justice of the peace hath already acted and qualified or hereafter before the issuing any such new commission of the peace shall act and qualify himself as before-mentioned shall on every such new commission of the peace being issued prepare a parchment roll with the oaths annexed to and usually taken under the said writ or commission of *Dedimus Potestatem* by justices of the peace ingrossed on such roll, and shall administer without fee or reward the oaths in such roll specified to every such justice of the peace within the respective counties cities and counties towns and counties ridings or divisions for which he shall respectively act or intend to act and who shall desire to take such oaths; and that every such justice of the peace after the taking the oaths contained in the said roll shall subscribe his name on the said parchment roll; and the said roll with the oaths so taken and subscribed shall be kept by the respective clerks of the peace of the respective counties cities and counties towns and counties ridings and divisions in *England* and *Wales* for the time being amongst the records of the sessions for the said respective counties cities and counties towns and counties ridings and divisions.

No. XIX.

1 Geo. III.
c. 13.

Such as have once taken the usual Oaths under a Writ of *Dedimus Potestatem* are exempted from suing out another Writ for administering again the said Oaths to them as Justices; but upon every new Commission a Roll, with the Oath annexed, is to be prepared, which all Justices, as they qualify themselves, are to subscribe; and the said Rolls are to be preserved amongst the Records of the Sessions.

[No. XX.] 7 George III. c. 9.—An Act for obviating Doubts which have arisen with respect to so much of an Act made in the First Year of the Reign of his present Majesty, intituled (An Act to amend an Act passed in the Eighteenth Year of the Reign of King George the Second, concerning the Qualification of Justices of the Peace, and for other Purposes therein mentioned,) as directs the taking of certain Oaths by Justices of the Peace, on the issuing of any new Commission of the Peace.

WHEREAS doubts have arisen with respect to the construction of so much of an Act made the first year of the reign of his present Majesty, intituled (An Act to amend an Act passed in the Eighteenth Year of the Reign of King George the Second, concerning the Qualifica-

7 George III.
c. 9.

1 Geo. 3. c. 1

No. XX.
7 Geo. III.
c. 9.

Justices not
obliged to take
and subscribe
the Oaths more
than once dur-
ing, &c.

tion of Justices of the Peace and for other Purposes therein mentioned) as relates to the taking of certain oaths by justices of the peace on the issuing of new commissions of the peace; Be it therefore enacted and declared by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That all persons who have been or shall be appointed justices of the peace by any commission or commissions granted or to be granted by his present Majesty, and have taken and subscribed or shall take and subscribe the oaths mentioned in the said Act made in the first year of his present Majesty's reign; and all persons who shall be appointed justices of the peace by any commission or commissions which shall be granted after his Majesty's demise by any of his successors Kings or Queens of this realm, and shall have after the issuing of the first commission whereby such persons shall be appointed justices of the peace in the reign of any such King or Queen taken and subscribed the said oaths, shall not be obliged during the reign of his present Majesty, or during any future reign in which such oaths shall have been so taken and subscribed as aforesaid, to take and subscribe the same oaths for or by reason of such persons being again appointed justices of the peace by any subsequent commission or commissions which shall be granted during any such reign; and shall not incur any penalty or forfeiture for the not taking or subscribing the said oaths.

[No. XX. a.] 7 George III. c. 21.—An Act to obviate Inconveniences which may arise with respect to the Execution of several Acts of Parliament in such Cities, Boroughs, Towns Corporate, Franchises, and Liberties, as have only One Justice of the Peace of the Quorum qualified to act within the same.

7 George III.
c. 21.
Preamble.

Two or more
Justices, though
not of the Quo-
rum, empower-
ed to carry cer-
tain Acts into
Execution.

WHEREAS authority is given by divers Acts of Parliament to two or more justices of the peace, whereof one or more are to be of the quorum: And whereas many inconveniences have arisen in such cities boroughs towns corporate franchises and liberties as have only one justice of the peace of the quorum qualified to act within the same: Be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled and by the authority of the same, That from and after the passing of this present Act all acts orders adjudications warrants indentures of apprenticeship or other instruments which shall be made done or executed by virtue of any Act or Acts of Parliament made or to be made by two or more justices of the peace qualified to act within such cities boroughs towns corporate franchises and liberties, though neither of the said justices are of the quorum, shall be valid and effectual in law to all intents and purposes as if one of the said justices had been of the quorum; any law statute or usage to the contrary notwithstanding.

[No. XX. b.]. 15 George III. c. 39.—An Act to empower Justices of the Peace to administer Oaths where any Penalty is to be levied, or Distress to be made, in pursuance of any Act of Parliament, wherein the same is not expressly directed:

15 George III.
c. 39.
Preamble.

WHEREAS it is frequently necessary for justices of the peace to administer oaths or affirmations where penalties are to be levied or distresses to be made in pursuance of Acts of Parliament, which they have no power to administer unless authorised so to do by such Acts respectively; May it therefore please your Majesty that it may be

enacted; and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That in all cases where any penalty is directed to be levied or distress to be made by any Act of Parliament now in force or hereafter to be made, it shall and may be lawful for any justice or justices acting under the authority of such Acts respectively, and he and they is and are hereby authorised and empowered to administer an oath or oaths affirmation or affirmations to any person or persons for the purpose of levying such penalties or making such distresses respectively.

Acts, Justices are empowered to administer Oaths, &c. for levying such Penalties, &c.

No. XX. b.
15 Geo. III.
c. 39.

In all Cases
where Penalties,
&c. are
directed to be
levied under

[No. XXI.] 28 George III. c. 49.—An Act to enable Justices of the Peace to act as such, in certain Cases, out of the Limits of the Counties in which they actually are.

WHEREAS the administration of justice is frequently obstructed for want of resident justices of the peace, and might be much furthered in case the justices acting for two or more adjoining counties are enabled to act for the same, if personally present in either of those in which they act; For remedy whereof in future, May it please your Majesty that it may be enacted; and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That from and after the passing of this Act it shall and may be lawful for any justice or justices of the peace acting as such for any two or more counties being adjoining counties to act as a justice or justices of the peace in all matters and things whatsoever, concerning or in any wise relating to any or either of the said counties, and that all act and acts of such justice or justices of the peace and the act and acts of any constable or other officer in obedience thereto shall be as valid good and effectual in the law to all intents and purposes whatsoever as if such act or acts of the said justice or justices had been done in the county or counties to which such act or acts more particularly relate; and all constables and other officers of the said county or counties to which such act or acts relate are hereby authorised and required to obey the warrants orders directions act and acts of such justice or justices so granted given and done, and to do and perform their several offices and duties under the pains and penalties to which any constable or other officer may be liable for a neglect of duty: Provided always, That such justice or justices be personally resident in one of the said counties at the time of doing such act or acts: Provided also, That the warrants orders or directions so to be given and granted, be directed and given in the first instance to the constable or other officer of the county to which the same more particularly relate.

II. And be it further enacted by the authority aforesaid, That from and after the passing of this Act it shall and may be lawful for any constable tythingman headborough or other peace officer, or any other person or persons apprehending or taking into custody any person or persons offending against law, and whom they lawfully may and ought to apprehend and take into custody by virtue of his or their office or offices or otherwise howsoever, to convey and take the person or persons so apprehended or taken into custody as aforesaid to any justice or justices of the peace acting for the said county and resident in such adjoining county as aforesaid; and the said constables tythingmen headboroughs and other peace officers and all and every other person or persons are hereby authorised empowered and required in all such cases so to act in all things as if the said justice or justices of the peace was or were resident within the said county to which they respectively belong; and all and every person or persons obstructing or hindering the said constables tything-

28 George III.
c. 49.

Preamble.

Justices may
act for two adjoining
Counties.

if they reside in
either at the
Time of acting.

Constables, &c.
may carry Offenders before
Justices acting
for the County,
and resident in
the adjacent
County, &c.

No. XXI.
28 Geo. III.
c. 49.

Sheriffs, &c.
may convey Of-
fenders through
adjoining Coun-
ties to the Gaol
of the County
where the Of-
fence was com-
mitted.

men headboroughs or other peace officers in the execution of their respective offices in the said county or counties adjoining as aforesaid shall be and are hereby made liable to the same pains and penalties for such obstruction and hindrance of the said officers in the execution of their respective offices as if the same had been committed in the county for which the said constables tythingmen headboroughs or other peace officers were appointed to act.

III. And be it further enacted by the authority aforesaid, That from and after the passing of this Act it shall and may be lawful for any sheriff or other person or persons deputed by him or acting under his authority, constable headborough tythingman or other peace officer, or any other person or persons lawfully taking into or having in his or their custody respectively any person or persons offending against law and whom he or they may or might lawfully convey to gaol or any place of safe custody, to convey or take the said person or persons so in custody as aforesaid into and through any part or parts of the said county or counties so adjoining in their way to such gaol or place of safe custody within the county wherein such offence was done or committed; and all and every person or persons escaping from such custody as aforesaid, or aiding or assisting such escape or escapes, or rescuing such person or persons so in custody as aforesaid, shall be subject to the like pains and penalties for such escape or escapes, and for such aid and assistance so given as aforesaid, and for such rescue and rescues, as if the said escape or escapes had happened or such aid and assistance had been given or such rescue or rescues made in the county wherein such offence was done or committed.

9 Geo. I. c. 7.

Justices for
Counties at
large may act
as such within
any City being
a County of it-
self, situate
therein or ad-
joining to such
County;

but are not to
act in Matters
arising within
such City, if
they are not
also Justices for
the same.

IV. ' And whereas by an Act passed in the ninth year of the reign of King George the First, intituled, "An Act for amending the Laws relating to the Settlement Employment and Relief of the Poor," provision is made for enabling justices of the peace dwelling in any city or other precinct, being a county of itself situate within a county at large, to act as such justices for the county at large at certain places within such city town or other precinct: And whereas such provisions have been found beneficial to the public, but doubts have arisen with respect to the construction of the said Act in certain cases; For the removing whereof Be it enacted, That from and after the passing of this Act it shall and may be lawful for any justice or justices of the peace acting for any county at large to act as such at any place within any city town or other precinct, being a county of itself and situate within surrounded by or adjoining to any such county at large; and that all and every such act and acts matters and things done by such justice or justices of the peace for the said county at large within such city town or other precinct shall be as valid and effectual in the law as if the same had been done within the said county at large to all intents and purposes whatsoever: Provided always, That nothing in this Act contained shall extend to give power to the justices of the peace for any county at large not being justices for such city town or other precinct, or any constable or other officer acting under them, to act or intermeddle in any matters or things arising within any such city town or precinct in any manner whatsoever.

[No. XXII.] 33 George III. c. 55.—An Act to authorize Justices of the Peace to impose Fines upon Constables, Overseers, and other Peace or Parish Officers, for Neglect of Duty, and on Masters of Apprentices for ill Usage of such their Apprentices; and also to make Provision for the Execution of Warrants of Distress granted by Magistrates.—[21st June 1793.]

[Inserted ante, title Apprentices.]

[No. XXIII.] 41 George III. c. 85.—An Act for better No. XXIII.
 Payment of Fines and Forfeitures imposed by Justices 41 Geo. III.
 out of Session, in *England*.—[27th June, 1801.] c. 85.

FOR the better bringing to account and making payment of such share of fines forfeitures and penalties due to his Majesty which are not by law payable to any particular persons commissioners or others levied before justices of the peace acting out of session; Be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That from and after the passing of this Act it shall be lawful for every Justice of the peace acting out of session for any county riding city borough division or place in *England* to receive all fines forfeitures and penalties imposed by him or any other justice of the peace as aforesaid acting out of sessions and not made payable to any body or bodies corporate or any commissioners of any public boards or any other person or persons and to give receipts for the same, which receipts shall be a sufficient discharge to the parties by whom the said fines shall be payable; and every such justice shall by himself or clerk keep an account in a book, to be provided for that purpose, of the amount of every fine forfeiture or penalty which shall have been set or imposed by any adjudication or order made by every such justice, specifying the place and time and manner of such adjudication or order the nature of the offence and the Act or Acts under which the same was adjudged and the name or names of the person or persons on whom such fine forfeiture or penalty was set or imposed; distinguishing whether the same was paid or levied and what part or share thereof, if any, has been or shall be paid or payable to any body or bodies corporate commissioners or person or persons, with the name and description of such body or bodies commissioners person or persons and the authority under which he she or they claimed such part or share; and shall annually, previous to the *Michaelmas* session, pay into the hands of every sheriff of the county or city and town and county having a separate sheriff, for which such justice shall have acted in imposing such fines, all such fines forfeitures or penalties or the parts or shares of such fines forfeitures or penalties as shall be due to his Majesty his heirs or successors; and the sheriff or his under sheriff is hereby required to give an acquittance for the same, which shall be a full discharge to every such justice his heirs executors and administrators for such fines forfeitures or penalties or parts or shares thereof.

41 George III.
c. 85.

Justices in *England* out of Session may receive and give Receipts for Fines and Forfeitures not payable to any Body Corporate, &c. or other Person, and shall enter Accounts thereof, and pay the Amount annually to the Sheriff of the County.

II. And be it further enacted, That any justice of the peace shall, previous to the *Michaelmas* sessions, annually transmit to the clerk of the peace of the county city or town or clerk of the town within which such fine forfeiture or penalty shall have been imposed an account in writing, stating the several fines forfeitures and penalties which have been imposed by him and shewing which have been received by him and from whom and for what offences; which account the clerk of the peace or town clerk shall enter in his estreats with the names of the justices, that the sheriff may be charged with the same in his apposal before the foreign apposer, to the end that the same may be set over and answered to the Crown in like manner as in the case of fines and forfeitures set or imposed at any session of the peace.

The Justices shall also transmit Accounts of such Fines and Forfeitures to the Clerk of the Peace, &c. that the Sheriff may be charged therewith, &c.

III. And be it further enacted, That as often as two or more justices shall act together in setting or imposing any fine forfeiture or penalty, then the said account shall be kept and a copy of it shall be delivered or transmitted and the payment as aforesaid shall be made by such one of the said two or more justices as shall reside at or near the place where such adjudication or order was made or at or nearest the place where such general quarter sessions shall be held.

Where two Justices shall impose Fines, Account shall be kept, &c. and Payment made by the Resident Justice.

IV. And be it further enacted, That the said several clerks of the peace receiving Accounts of such Fines from Clerk of the Peace shall give Notice to the Persons entitled thereto.

No. XXIII. or town clerks or their deputies shall, within ten days next after any such general quarter sessions of the peace in which such justice shall have returned any conviction as aforesaid, deliver to the bailiff or chief constable of the district where any person shall reside who shall by law be entitled to any share or proportion of any fines forfeitures or penalties which shall have been had and received by any such justice as aforesaid, an account in writing of such fines forfeitures and penalties; which bailiff or chief constable shall transmit an account thereof to the petty constable of the parish township or place where such person shall reside, that notice may be given to the person so entitled that he may without delay apply to such justice for his share of such fine forfeiture or penalty.

Act shall not prevent Officers of the Crown from allowing Fines as heretofore, &c.

Not to the Payment of Fines in any of the seven Publick Offices, under 32 Geo. 3. c. 53.

V. Provided always, That nothing in this Act shall be construed to extend to prevent the officers of the Crown from allowing any fines forfeitures or penalties levied by justices of the peace for justices' wages, in the same manner as other fines are now allowed by law; and provided also, that it shall be lawful for sheriffs or any other persons empowered to allow the same to have an allowance of the same poundage on the balance of such fines charged on them after an allowance for justices' wages, in like manner as for fines at the assizes.

VI. And be it further enacted, That nothing herein contained shall be construed to prevent the payment to the receiver of fines penalties and forfeitures by the justices or their clerks in any of the seven publick offices appointed by virtue of an Act passed in the thirty-second year of his present Majesty's reign, intituled, "An Act for the more effectual Administration of the Office of a Justice of the Peace in such parts of the Counties of *Middlesex* and *Surrey* as lie in and near the Metropolis, and for the more effectual Prevention of Felonies."

[No. XXIV.] 57 George III. c. 91.—An Act to enable Justices of the Peace to settle the Fees to be taken by the Clerks of the Peace of the respective Counties and other Divisions of *England* and *Wales*.—[10th July 1817.]

37 Geo. III. c. 91.

Justices of Peace, at their Annual General and General Quarter Sessions, to settle a Table of Fees to be taken by the Clerks of the Peace for the Counties of *England* and *Wales*.

WHEREAS doubts have arisen touching the fees and allowances due and to be made to the clerks of the peace of the several counties and other divisions in *England* and *Wales*; for the removing of such doubts, Be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That from and after the first day of *July* next it shall and may be lawful to and for the justices of the peace for the county of *Kent* and for the county palatine of *Lancaster*, at their annual general sessions of the peace, and for the justices of the peace in every other county riding division city town liberty or precinct within *England* and *Wales*, at their respective general quarter sessions of the peace, to ascertain make and settle a table of fees and allowances to be taken by the clerk of the peace for such county of *Kent* and such county palatine and such other counties ridings divisions cities towns liberties and precincts respectively; and such table of fees and allowances when so made shall be subject to the approbation of the justices of the peace at the then next succeeding general annual session of the peace for the county palatine of *Lancaster* and for the county of *Kent*, and at the then next succeeding general quarter session of the peace for every other such county riding division city town liberty or precinct as aforesaid, or at some adjournment of such sessions respectively; and such table of fees respectively when so approved respectively shall be laid before the judges of assize at the next assizes for such counties and places respectively, except the several places being counties in which assizes are not constantly or regularly holden in every year, and in those cases before the justices at the next assizes for the adjoining county where assizes are constantly and regularly holden, and to which prisoners

are generally removed for trial from such places respectively, and also except the counties in *Wales* and the county palatine of *Chester*, and before the justices at the next great sessions for the several counties in *Wales* and for the county palatine of *Chester*; and the said judges and justices respectively are hereby authorized to ratify and confirm such tables respectively either as settled and approved as aforesaid or with such alterations additions and improvements as to such judges and justices last mentioned shall appear to be just and reasonable; and it shall be lawful for the said justices of the peace at their respective quarter or general sessions of the peace from time to time in like manner to make other table of fees and allowances instead of or in addition to the tables of fees and allowances before made, which shall and may be approved and afterwards ratified and confirmed in like manner; which fees and allowances contained in such tables respectively when so made and approved and afterwards ratified and confirmed as aforesaid, shall be the only fees and allowances which shall be taken by the clerks of the peace of the several counties and places for which such tables respectively shall be so made approved ratified and confirmed from and after such ratification and confirmation thereof respectively; any thing in any Act or Acts of Parliament or any law usage or custom to the contrary in anywise notwithstanding.

II. And be it further enacted, That if at any time after any such table of fees and allowances shall have been so ratified and confirmed as aforesaid any clerk of the peace or any person or persons acting as such shall under pretence of any matter or thing done transacted or performed demand or receive any other or greater fee or allowance than the fee or allowance fees or allowances ascertained ratified and confirmed as aforesaid, such clerk of the peace or other person shall for every such offence forfeit and pay the sum of five pounds to any person who shall sue for the same by action of debt bill plaint or information in any of his Majesty's courts of record at *Westminster*, wherein no essoign privilege protection wager of law or more than one imparlance shall be granted or allowed.

III. And be it further enacted, That every table of fees and allowances which shall be made approved ratified and confirmed from time to time as aforesaid shall be deposited with the clerk of the peace for the county or place for which such table of fees shall have been so made approved ratified and confirmed as aforesaid; and a true and exact written or printed copy or copies thereof shall be placed and constantly kept in a conspicuous part of every room or place wherein any general or quarter sessions of the peace for such county or place shall be held; and if any clerk of the peace or person acting as such shall at any time neglect to cause every such copy to be so placed and constantly kept according to the provisions of this Act, he shall forfeit and pay to any person who shall sue for the same for every such offence the sum of five pounds, to be recovered by action of debt bill plaint or information in any of his Majesty's courts of record at *Westminster*, wherein no essoign privilege protection wager of law nor more than one imparlance shall be granted or allowed.

IV. And be it further enacted, That all suits and actions which shall be brought or commenced by virtue of this Act shall be brought before the end of three calendar months after the offence committed and not otherwise.

Penalty on Clerks of the Peace taking greater Fees than allowed.

Printed or written Copies of such Table of Fees to be hung up in some conspicuous Place where the General or Quarter Sessions shall be held; and Penalty on Clerks of the Peace neglecting so to do.

Limitation of Actions.

[No. XXV.] 59. George III. c. 92.—An Act to enable Justices of the Peace in *Ireland* to act as such in certain Cases out of the Limits of the Counties in which they actually are; to make Provision for the Execution of Warrants of Distress granted by them; and to authorise them to impose Fines upon Constables and other Officers for Neglect of Duty, and on Masters for Ill Usage of their Apprentices.—[12th July 1819.]

No. XXVI.

1 Geo. IV.
c. 66.

[No. XXVI.] 1 Geo. IV. c. 66.—An Act to continue, until the end of the next Session of Parliament, Two Acts of the 54th Year of his late Majesty for the more effectual Administration of the Office of a Justice of the Peace in and near the Metropolis, and for the Prevention of Depredations on the River Thames.—[15th July 1820.]

[No. XXVII.] 1 & 2 George IV. c. 63.—An Act to amend an Act, made in the Twenty-eighth Year of the Reign of King George the Third, intituled *An Act to enable Justices of the Peace to act as such, in certain Cases, out of the Limits of the Counties in which they actually are.*—[2d July 1821.]

1 & 2 Geo. IV.
c. 63.

28 Geo. 3. c. 49.

WHEREAS by an Act of Parliament passed in the twenty-eighth year of the reign of King George the Third, intituled *An Act to enable Justices of the Peace to act as such, in certain Cases, out of the Limits of the Counties in which they actually are*, it was enacted, that it should and might be lawful for any justice or justices of the peace acting for any county at large to act as such at any place within any city town or precinct being a county of itself and situate within surrounded by or adjoining to any such county at large; and that all and every such act and acts matters and things done by such justice or justices of the peace for the said county at large within such city town or other precinct should be as valid and effectual in the law as if the same had been done within the said county at large, to all intents and purposes whatsoever: And whereas doubts have been entertained whether justices of the peace for counties at large are thereby empowered to act for such counties at large within any city town or other precinct having exclusive jurisdiction but not being a county of itself; Be it therefore enacted and declared by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That it shall and may be lawful for any justice or justices of the peace acting for any county at large or for any riding or division of a county in which there are several and distinct commissions of the peace to act as a justices or justice for such county at large riding or division in sessions or otherwise at any place within any city town or other precinct having exclusive jurisdiction but not being a county of itself and situate within surrounded by or adjoining to any such county at large riding or division; and that all and every such act and acts matters and things which shall be done or which may heretofore have been done by such justice or justices of the peace for the said county at large riding or division within such city town or other precinct shall be as valid and effectual in the law as if the same had been done within the said county riding or division to all intents and purposes whatsoever: Provided always, That nothing in this Act contained shall extend to give power to the justices of the peace for any county at large riding or division not being justices for such city town or other precinct, or any constable or other officer acting under them to act or intermeddle in any matters or things arising within any such city town or precinct in any manner whatsoever.

Justices of the Peace, acting for any County at large, &c. may act as such in Places having exclusive Jurisdiction within or adjoining such County:

Proviso.

[No. XXVIII.] 1 & 2 George IV. c. 118.—An Act for the more effectual Administration of the Office of a Justice of the Peace in and near the Metropolis; and for the more

effectual Prevention of Depredations on the River Thames and its Vicinity, for one Year.—[10th July 1821.]

WHEREAS two Acts were made in the fifty-fourth year of his late Majesty's reign, the one intituled *An Act for repealing an Act made in the Fifty-first Year of his present Majesty for the more effectual Administration of the Office of a Justice of the Peace in such Parts of the Counties of Middlesex and Surrey as lie in or near the Metropolis; and for making other Provisions in lieu thereof; to continue in force until the First Day of June One thousand eight hundred and twenty, and from thence until the Expiration of Six Weeks from the Commencement of the then next Session of Parliament*; and the other, intituled *An Act to revive and continue until the First Day of June One thousand eight hundred and twenty, and to amend several Acts for the more effectual Prevention of Depredations on the River Thames and its Vicinity*; both which Acts were by an Act of the last session of Parliament continued in force until the end of the present session of Parliament: And whereas it is expedient that the provisions of the said Acts should be consolidated and amended; and that one of the police offices established by the said first recited Act should be removed to a more convenient site: May it therefore please your Majesty that it may be enacted; and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That the said two Acts of the fifty-fourth year aforesaid shall be and the same are hereby continued in force until and upon the fifth day of July one thousand eight hundred and twenty-one and be then repealed; and that the provisions of this Act shall thenceforth commence and continue in force for the term of one year.

II. And be it enacted, That the police office now established in the parish of *Saint John of Wapping*, commonly called 'The Thames Police Office,' and the several police offices now established in the parishes of *Saint Margaret Westminster Saint James Westminster Saint Andrew Holborn Saint Leonard Shoreditch and Saint Mary Whitechapel* in the county of *Middlesex* and in the parish of *Saint Saviour* in the county of *Surrey* shall be continued; and that instead of the police office now established in the parish of *Saint Paul Shadwell* a new police office shall be established in the parish of *Saint Mary-le-bone* in the said county of *Middlesex*; and that the several persons heretofore appointed or who before the commencement of this Act shall be appointed to execute the duties of a justice of the peace at the police offices now established under the said recited Acts shall continue to execute the same at the said seven first-mentioned offices and at the said police office so to be established as last aforesaid, together with such other justices of the peace for the said counties respectively as may think proper to attend thereat; and that it shall be lawful for his Majesty his heirs and successors, upon every vacancy by death or otherwise, to appoint another fit person being a justice of the peace of the said counties of *Middlesex* and *Surrey* respectively to execute the duties of a justice of the peace at the said several police offices in lieu of the person making such vacancy.

III. And be it further enacted, That one or more of the said justices so appointed shall diligently attend at each of the said police offices every day, from ten of the clock in the morning until eight of the clock in the evening, and at such other times and places as shall be found necessary and directed by his Majesty's Principal Secretary of State for the Home Department; and that two of the said justices shall in like manner attend together at each of the said offices from twelve of the clock at noon until three in the afternoon: Provided always, that no such attendance shall be given on *Sunday Christmas Day Good Friday* or any day appointed for a public fast or thanksgiving unless in cases of urgent necessity or when it shall be directed by such Principal Secretary of State.

IV. And be it further enacted, That the present receiver for the seven police offices established under the said first recited Act shall become the Office; and in case of Death his Majesty may appoint another.

No.
XXVIII.
1 & 2
Geo. IV.
c. 118.

1 & 2 Geo. IV.
c. 118.

54 Geo. 3. c. 37.

54 Geo. 3.
c. 187.

1 Geo. 4. c. 66.

Commence-
ment and Con-
tinuance of this
Act.

The Public
Offices now
established
shall be con-
tinued, but
instead of the
Office at Shad-
well a new
Office shall be
established in
Mary-le-bone.
Justices to act.

His Majesty
may appoint
Justices to fill
up Vacancies.

Time of At-
tendance.

Receiver to be
continued in
Office.

No.
XXVIII.
1 & 2
Geo. IV.
c. 118.

His Duty.

receiver for the said eight police offices; and that it shall be lawful for his Majesty his heirs and successors, upon any vacancy in the said office of receiver by death or otherwise, to appoint any other proper person not being one of the justices appointed to act at either of the said police offices to be the receiver of the said eight police offices; and that the said receiver for the time being shall receive all fees penalties and forfeitures and other sums of money applicable to the purposes of this Act, and shall keep an exact and particular account of all such monies as shall be received by him, and shall apply the same quarterly in discharge of the salaries expences and charges attending the said police offices and in carrying this Act into execution, and shall make all such contracts and disbursements as shall be necessary for purchasing hiring fitting up and furnishing proper and sufficient houses and buildings wherein the said eight public offices shall be held in such manner as his Majesty his heirs and successors, by and with the advice and consent of his or their privy council shall think proper to direct and appoint; of which houses and buildings so to be hired or purchased and the fixtures and furniture thereof, and of all other necessities to be held or purchased for the purposes of this Act, the property acquired therein shall be vested in the receiver for the time being, who shall and may sell assign and dispose of the same or any part thereof under the like directions and appointment as occasion shall require; and such receiver shall prepare proper plans and estimates of all such contracts and disbursements as shall be necessary for the purposes aforesaid and shall deliver the same to his Majesty's Principal Secretary of State for the Home Department; and such receiver shall further do and execute all such other lawful matters and things towards the establishment of the said eight police offices and towards the carrying this Act into execution as his Majesty, his heirs and successors, by and with the advice of his or their Privy Council shall from time to time think proper to direct.

Justices to employ Constables, subject to the Approbation of the Secretary of State.

V. And be it further enacted, That the justices appointed as aforesaid or any two of them in their respective offices shall appoint retain and employ a sufficient number of fit and able men for the whole eight offices subject to the approbation of his Majesty's Secretary of State for the Home Department; whom they are hereby authorised and empowered to swear in to act as constables for preserving the peace and preventing robberies and other felonies and apprehending offenders against the peace; which constables so sworn shall within the counties of *Middlesex Surrey Essex and Kent* have all such powers authorities privileges and advantages as any constable duly appointed now has or hereafter may have by virtue of any law or statute now made or hereafter to be made; and shall obey all such lawful commands as they shall from time to time receive from the said justices respectively for the apprehending offenders or otherwise conducting themselves in the execution of their offices; and such justices may at any time suspend or dismiss from his employment any such constable attached to their respective offices whom they shall think remiss or negligent in the execution of his duty or otherwise unfit for the same; and when any such constable shall be so dismissed or cease to belong to any of the said offices, all powers and authorities vested in him as a constable under and by virtue of this Act shall immediately cease and determine to all intents and purposes whatever.

Thames Police Surveyors to be appointed in like Manner.

VI. And be it further enacted, That the justices appointed to the said *Thames* police office or any two of them shall (subject to such approbation as aforesaid) retain and employ any number of fit and discreet men, not exceeding thirty, who under the name of *Thames* police surveyors shall (being first duly sworn in manner above mentioned) have within the counties aforesaid the powers authorities privileges and advantages of a constable as aforesaid, and shall direct and inspect the conduct of the constables attached to the *Thames* police office and of all persons to be employed in and about ships and vessels in the said river *Thames* or in or on the several creeks wharfs quays and landing places thereto adjacent, and (subject to the orders of the said last-mentioned justices shall have power by virtue of their offices to enter at all times as well by night as

No.
XXVIII.
1 & 2
Geo. IV.
c. 118.

**Justices to be
allowed a Sa-
lary of 600*l*.
per Annum.**

**Further Sums
to be issued for
Payment of
Clerks, Constables,
&c.**

**No Justice
shall take Fees
but at the Pub-
lic Offices, on
Penalty of
100*l*.**

No.
XXVIII.
1 & 2
Geo. IV.
c. 118.

Not to extend
to Fees for li-
censing Ale-houses,
or to Fees taken at the Office in Bow-street.

Tables of Fees
to be hung up.

26 Geo. 2. c. 14.

27 Geo. 2. c. 16.

allowed: Provided always, that nothing in this Act contained shall be construed to extend to any fees taken at any general or quarter sessions of the peace or at any meeting of justices for the purpose of licensing alehouses, or to any fees taken at the Public Office in *Bow-street*, or to any fees taken by any vestry clerk for the purpose of enforcing the payment of any taxes or assessments arising within the same parish, or for the purpose of hearing and determining any offence cognizable before justices of the peace by virtue of any statute made and provided for the special regulation or government of such parish.

IX. And be it further enacted, That in some conspicuous part of each of the said police offices and also of the said Public Office in *Bow-street* there shall be affixed a table of the fees which may legally be taken at such offices respectively, under an Act passed in the twenty-sixth year of the reign of King George the Second, intituled *An Act for the settling and ascertaining the Fees to be taken by Clerks to Justices of the Peace*; and under another Act passed in the twenty-seventh year of the reign of King George the Second, intituled *An Act for making perpetual several Laws for Punishment of Persons destroying Turnpikes Locks or other Works erected by Authority of Parliament*; and that all Acts made for erecting Courts of Conscience shall be deemed Public Acts; and to empower a certain Number of the Trustees of the British Museum to do certain Acts; and for confirming the Tables of Fees to be taken by the Clerks to the Justices of the Peace for the County of Middlesex; and for giving further Time for the Payment of Duties omitted to be paid for the Indentures or Contracts of Clerks and Apprentices; and for filing Affidavits in the Execution of Contracts of Clerks to Attornies and Solicitors; and for preventing Persons driving certain Carriages from riding upon such Carriages; and that it shall be lawful for any justice at such offices respectively to refuse to do any act for which any fee shall be demandable unless such fee shall be first paid; and that if any such act shall be done and the fee due thereon shall not be paid it shall be lawful for any justice of the peace to summon the person from whom such fee shall be due, and to make order for payment of the same with the costs of the proceedings, and in default of payment to levy the same with the costs of the distress by warrant under his hand and seal.

X. And be it further enacted, That the justices so appointed to attend at the said police offices and their clerks respectively shall in books to be provided for that purpose keep a full true and particular account of all fees taken and received at each of the said offices together with all penalties and forfeitures which shall have been recovered levied or received in pursuance of any adjudication conviction or order had or made at any of the said offices or any process or warrant issuing from the same; to which books of account the said receiver shall at all times have free access; and the said justices shall once in every quarter of a year deliver unto such receiver such account verified upon oath by such justice or justices clerk or clerks or such other person or persons as shall be employed in keeping such accounts respectively or any part thereof before some justice of the peace for the said county of *Middlesex* or county of *Surrey* and shall pay the amount of all such fees unto such receiver to be applied in manner herein-before mentioned.

XI. And be it further enacted, That all such penalties and forfeitures and shares of penalties and forfeitures as are by any Act now in force or shall be by any future Act (unless it shall contain express words to the contrary) limited and made payable to his Majesty his heirs and successors or to any description of persons other than the informer or informers who shall sue for the same or any party aggrieved, and which shall be recoverable in a summary way before a justice or justices of the peace and which shall be recovered or adjudged before any justice or justices at either of the said police offices shall be accounted for and paid into the hands of the said receiver by the justice clerk constable officer or other

Account of
Fees taken at
the Police Of-
fices shall be
delivered Quar-
terly to the
Receiver, and
the Amount of
Fees paid to
him.

All Penalties
(except to In-
formers or Par-
ties aggrieved)
recovered at the
Police Offices,
shall be paid to
the Receiver.

person or persons who shall levy or receive the same; to be applied by such receiver in manner herein-before mentioned.

XII. And be it further enacted, That if the said justices appointed as aforesaid or any other person having received any such fees at any of the said police offices shall neglect to account for and pay the same in manner aforesaid; or if any justice justice's clerk constable officer or other person who shall levy or receive such penalties or forfeitures or shares of penalties or forfeitures shall neglect to pay the same into the hands of such receiver in manner aforesaid; or if any person having resigned any such office of receiver or having been removed from the same shall neglect within twenty-one days after notice for that purpose to account for and pay into the hands of the succeeding receiver all such sums of money as shall remain in his hands applicable to the purposes of this Act, it shall be lawful for such receiver for the time being in his own proper name only or by his name and description of office to sue for and recover the same with double costs of suit in any of his Majesty's courts of record at *Westminster* by action of debt, in which action it shall be sufficient for such receiver to declare as for money had and received to the use of such receiver for the purposes of this Act; and the defendant or defendants in such action may at the discretion of any judge of such court be held to special bail in such competent sum as such judge shall order and direct; and in any such action the court in which such action shall be brought may if such court shall think proper, at the instance of either of the parties, refer the account in dispute in a summary manner to be audited by any officer of the court or other fit person at their discretion, who may examine both plaintiff and defendant upon oath (which oath the said referee shall have power to administer), and upon the report of such referee, unless either of the parties shall shew good cause to the contrary, such court may make a rule either for the payment of such sum as upon such report shall appear to be due or for staying the proceedings in such cause, and upon such terms and conditions as to the same court shall appear reasonable and just; or may order judgment to be entered up by confession for such sum as upon such report shall appear to be due.

No.
XXVIII.
1 & 2
Geo. IV.
c. 118.

If Fees and Penalties are not accounted for, Receiver may sue for the same in any Court of Record.

XIII. And be it further enacted, That in case of the death of any such receiver or of any person having resigned or been removed from such office or of any of the other persons whom the said receiver for the time being is authorised to sue as aforesaid, in every such case the receiver for the time being may in his own proper name only or by his name and description of office sue for and recover such sum of money as shall have been remaining in the hands of such deceased receiver or other person applicable to the purposes of this Act, or the executors or administrators of such person deceased; in which action it shall be sufficient for the plaintiff to declare that the deceased was indebted to the plaintiff for money had and received for the purposes of this Act, or that the deceased died possessed of money had and received for the purposes of this Act, whereby an action accrued to the plaintiff to demand and have the same of such executors or administrators; and the like action shall and may be brought against any executors or administrators of executors or administrators; in all which actions the defendant or defendants may plead in like manner and avail themselves of the like matters in their defence as in any action founded upon simple contracts of the original testator or intestate; and in all actions to be brought by such receiver by virtue of this Act, proof of the plaintiff's acting in the execution of such office shall be sufficient evidence of his holding the same, unless the contrary shall be shown in evidence by the defendant or defendants in such action.

Receiver may sue for Money in the Hands of deceased Receivers, and recover from Executors.

XIV. And be it further enacted, That such receiver shall every three months, and oftener if required, deliver to the Lord High Treasurer or the Commissioners of his Majesty's Treasury of the United Kingdom of *Great Britain and Ireland* for the time being a full and particular account of all monies by him received and paid as aforesaid, with vouchers for the same; which account shall be verified upon oath before some justice or baron of one of his Majesty's courts of record at *Westminster*; and such receiver for his care and pains in the execution of such office shall and

Receiver to render Accounts quarterly, or oftener if required.

Allowance to the Receiver.

No.
XXVIII.
1 & 2
Geo. IV.
c. 118.

Justices not to
sit in Parlia-
ment.

No Justice, Re-
ceiver, Survey-
or or Constable
to vote at
certain Elec-
tions.

Acts directed to
be done by a
Justice where
an Offence is
committed, may
be done by a
Justice in the
next Police
Office.

His Majesty in
Council may
alter the Situa-
tion of the Of-
fices.

For Regulation
of Coffee-shops.

Penalty not ex-
ceeding 10*l*.

may retain to his own use, out of the monies so received by him as aforesaid, such sum not exceeding four hundred pounds as his Majesty his heirs and successors, by and with the advice of his or their privy council shall direct and appoint: Provided always, That if at the end of any year there shall be any surplus in the hands of such receiver he shall pay the amount of such surplus into the receipt of his Majesty's Exchequer, and the same shall be carried to and made part of the consolidated fund.

XV. And be it further enacted, That no justice appointed as aforesaid shall during his continuance in such appointment be capable of being elected or of sitting as a member of the House of Commons; and that no justice receiver surveyor or constable appointed by virtue of this Act shall during the time that he shall continue in his office respectively or within six months after he shall have quitted the same be capable of giving his vote for the election of a member to serve in Parliament for the counties of *Middlesex* or *Surrey*, or for the city and liberty of *Westminster* or the borough of *Southwark* respectively; nor shall by word message writing or in any other manner endeavour to persuade any elector to give or dissuade any elector from giving his vote for the choice of any person to be a member to serve in Parliament for the said counties city or borough; and every such justice receiver surveyor or constable offending therein shall forfeit the sum of one hundred pounds, one moiety thereof to the informer and the other moiety thereof to the use of the poor of the parish or place where such offence shall be committed; to be recovered by any person that shall sue for the same by action of debt bill plaint or information in any of his Majesty's courts of record at *Westminster*, in which noessoign protection privilege wager of law or more than one imparlance shall be allowed; such action to be brought within the space of one year after such offence committed: Provided nevertheless, That nothing in this Act shall extend to subject any such justice receiver surveyor or constable to any penalty for any act done by him at or concerning any of the said elections in the discharge of his duty in the said respective capacities.

XVI. And be it further enacted, That where by any law now in being or hereafter to be made any act is directed or authorised to be done by any justice or justices of the peace residing in or near or next the parish or place where any offence or other matter cognisable before them shall be committed or shall arise, the same jurisdiction shall and may be exercised by a justice or justices acting in such of the said police offices as may be situated next or near such parish or place.

XVII. And be it further enacted, That it shall be lawful for his Majesty his heirs and successors, by and with the advice of his or their privy council, to make such alterations in the places where any of the said police offices shall be situated, or to make such alterations in the hours of attendance therein, and to make all such other regulations to be observed in conducting the same as he or they from time to time shall think proper.

XVIII. And whereas it hath become a practice of late to open shops or rooms for the sale or under the pretence of selling ready-made coffee tea and other liquors, and to keep such shops or rooms open during the whole or the greatest part of the night, thereby affording shelter and accommodation to thieves prostitutes and other disorderly persons and tending greatly to the encouragement of robberies and to the concealment of stolen property; Be it further enacted, That no shop room or place for the purpose aforesaid within the city of *London* or the liberties thereof within the limits of the weekly bills of mortality or within any of the parishes herein-before mentioned shall be kept open after the hour of eleven o'clock at night during any part of the year, nor opened before the hour of four o'clock in the morning between *Lady Day* and *Michaelmas*; or before six o'clock in the morning between *Michaelmas* and *Lady Day*; and if any such shop room or place shall be open within the hours herein-before prohibited, or being shut up if any person shall during these hours be found therein, except the persons actually dwelling there or having

lawful excuse for being there, then the master mistress waiter or other person having the care government or management of such shop room or place, whether he or she be the real owner or keeper thereof or not, shall forfeit and pay any sum not exceeding ten pounds upon conviction of any such offence before any justice of the peace by confession or upon the oath of one or more credible witness or witnesses; and if the party so convicted shall not immediately pay the said penalty the justice shall commit him or her to hard labour in the house of correction for any space of time not exceeding three months, unless the said penalty shall be sooner paid; and the said penalty when paid shall be distributed one moiety to the informer the other moiety to the Chamberlain of the city of London, if the offence be committed in the said city or the liberties thereof; and if out of the said city and liberties, then the other moiety to the said receiver for the purposes of this Act: Provided always, That nothing herein contained shall apply to or affect any house duly licensed for the sale of wines and spirituous liquors; and that no such conviction shall exempt the owner keeper or manager of any such shop room or place from any penalty or penal consequence whereto he or she may be liable for keeping a disorderly house.

Application of
Penalty.

Not to affect
Houses for the
Sale of Wines
and Spirits.

XIX. And be it further enacted, That if any person shall within the city of London and liberties thereof, or within the limits and parishes aforesaid, blow any horn or use any other noisy instrument for the purpose of hawking selling or distributing any article whatsoever, it shall be lawful for any constable headborough patrol watchman or other person to apprehend every person so offending and convey him before any justice of the peace, who shall proceed to examine upon oath any witnesses appearing to give evidence touching such offence; and if the party accused shall be convicted of such offence, then and in every such case he shall for every such offence forfeit and pay any sum not exceeding forty shillings and not less than ten shillings, to be applied in such manner as such justice shall direct; and in case the offender shall not upon conviction forthwith pay the penalty, such justice is hereby required to commit such offender to the house of correction, there to be kept to hard labour for any time not exceeding ten days, unless the penalty shall be sooner paid.

Prohibiting the
blowing of
Horns on Sun-
days, &c.

Penalty.

XX. And be it further enacted, That every conviction for the offences aforesaid shall be in the following form of words, or in some other form of words to the like effect:

Form of Con-
viction.

‘ **B**E it Remembered, That on the _____ day of _____
in the year of our Lord _____ A. D. is
brought before me [or, having been duly summoned has neglected to
appear before me,] C. D. Esquire, one of his Majesty’s Justices of the
Peace in and for the county of _____ [or, city or liberty
or place, as the case may be,] and is charged before me the said Justice
with having [here describe the offence;] and it appearing to me the said
Justice upon the confession of him the said A. B. [or, upon the oath
of a credible witness, as the case may be,] that the said A. B. is guilty
of the said offence; I do therefore adjudge the said A. B. to forfeit and
pay the sum of _____ and in default of pay-
ment to be imprisoned in the house of correction at
and there kept to hard labour for the term of
unless the said penalty shall be sooner paid; and I do hereby direct
that the said penalty shall when paid be applied to [here direct the
mode.] Given under my hand and seal, the day and year first above
written.’

XXI. And whereas ill-disposed and suspected persons and reputed thieves frequent the parks fields streets highways and places adjacent, and divers places of public resort and the avenues leading thereto, within the city of London and the liberties thereof, the limits of the weekly bills of mortality, and the said parishes of Saint Mary-le-bone Paddington Saint Pancras Kensington and Saint Luke at Chelsea, and also the said river Thames, and the docks and creeks quays and warehouses adjacent thereto, and the streets highways and avenues leading to the said river

Constables may
apprehend sus-
pected Per-
sons.

No.
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1 & 2
Geo. IV.
c. 118.

17 Geo. 2. c. 5.

Form of Con-
viction.

docks creeks quays and warehouses, with intent to commit felony on the persons or property of his Majesty's subjects; and although their evil purposes are sufficiently manifest, the power of his Majesty's justices of the peace to demand of them sureties for their good behaviour hath not been of sufficient effect to prevent them from carrying their evil purposes into execution; Be it further enacted, That it shall be lawful for any constable headborough patrolle watchman or other person to apprehend every such suspected person or reputed thief, and convey him or her before any justice of the peace; and if it shall appear before the said justice upon the oath of one or more credible witness or witnesses that such person is a person of evil fame and a reputed thief, and such person shall not be able to give a satisfactory account of himself or herself and of his or her way of living, and it shall also appear to the satisfaction of the said justice that there is just ground to believe that such person was in or on such park field street highway river dock creek quay warehouse avenue or other place as aforesaid with such intent as aforesaid, every such person shall be deemed a rogue and vagabond within the intent and meaning of the statute made in the seventeenth year of his late Majesty King George the Second, intituled *An Act to amend and make more effectual the laws relating to Rogues, Vagabonds and other idle and disorderly Persons, and to Houses of Correction.*

XXII. And be it further enacted, That every such conviction shall be in the following form of words, or in some other form of words to the like effect:

' **BE** it Remembered, That on the _____ day of _____
' _____ in the year of our Lord _____
' *A. B.* is brought before me *C. D.* Esquire, one of his Majesty's Jus-
' tices of the Peace in and for the county of _____ [or, city
' liberty or place, as the case may be,] and charged before me the said Jus-
' tice with being a rogue and vagabond, he the said *A. B.* having been
' apprehended on the _____ day of _____
' in a certain _____ called _____ in the parish of _____
' _____ in the said county [or, city, *et cetera*, as the case
' may be,] and it appearing to me the said Justice on the oath of
' a credible witness, that the said *A. B.* is a person
' of evil fame and a reputed thief, and the said *A. B.* on his examination
' before me, not being able to give a satisfactory account of himself or of
' his way of living, and it is also appearing to the satisfaction of me the
' said Justice that there is just ground to believe that the said *A. B.* was
' in such _____ as aforesaid, with intent to commit felony
' on the person or property of his Majesty's subjects there being; I do
' therefore, in pursuance of an Act passed in the first and second year
' of the reign of King George the Fourth, intituled [here insert the title
' of this Act] convict him the said *A. B.* of the said offence, and adjudge
' him to be a rogue and vagabond within the intent and meaning of the
' statute made in the seventeenth year of the reign of his late Majesty
' King George the Second, intituled *An Act to amend and make more effec-
' tual the Laws relating to Rogues, Vagabonds and other idle and disorderly
' Persons, and to Houses of Correction*; and that he for his said offence
' be committed to the house of correction for the said county until the
' next general [or, quarter, as the case may be] sessions of the peace to be
' holden for the said county [city or, place, as the case may be,] then and
' there to be further dealt with according to law. [If the party be com-
' mitted for a less time than until the sessions, then say, there to remain for
' the space of _____.] Given under my
' hand and seal, the day and year first above written.

Conviction not
to be quashed
for Want of
Form, or re-
moveable by
Certiorari.
Appeal to

After Sessions, &c.

XXIII. And be it further enacted, That no conviction under this Act for any of the offences aforesaid shall be quashed or set aside or adjudged void or insufficient for want of any other form of words whatever; nor shall the same be removed by certiorari into his Majesty's Court of King's Bench; but that if any person shall think himself aggrieved thereby, such person may appeal to the justices of the peace at the next general or

quarter sessions of the peace to be held for the county or city wherein the cause of complaint shall have arisen, such person at the time of his conviction entering into a recognisance with two sufficient sureties conditioned personally to appear at the said sessions to try such appeal, and to abide the further judgment of the justices at such sessions assembled; and in case any such conviction of a reputed thief shall be affirmed at such sessions, the said justices may adjudge the offender to be a rogue and vagabond and proceed against him or her in the same manner as they might have done if such rogue and vagabond had been committed to the house of correction until such general or quarter sessions; and in case such offender shall not appear pursuant to the said recognisance, the person so convicted by such justice shall be deemed an incorrigible rogue within the intent and meaning of the said last recited Act; and the justices at such sessions or any two of them shall issue their warrant to apprehend and commit the person so deemed an incorrigible rogue to some house of correction or common gaol within their jurisdiction, there to remain until the next general or quarter sessions for the said county liberty or city as the case may be, then and there to be further dealt with according to law.

XXIV. And whereas it is expedient that the officers of the said Public Office in *Bow-street* and the horse and foot patrol acting under the orders of the chief magistrate of that office shall be sworn in as constables and be empowered to act within the said several counties of *Middlesex Surrey Essex and Kent*, Be it therefore further enacted, That it shall and may be lawful for the said chief magistrate to administer to such persons respectively an oath duly to execute the office of constable within the counties aforesaid; and each of such persons being sworn shall have power to act as a constable for the preservation of the peace and for the security of property against felonious and other unlawful modes of obtaining the same within any and every of the said several counties, and for apprehending offenders against the peace as well by night as by day; and shall have all such powers and authorities privileges and advantages as any constable duly appointed now has or hereafter may have within his constableness: Provided always, That when any such constable shall be dismissed from his said employment, or cease to belong to the said Public Office in *Bow-street*, all powers and authorities allowances emoluments privileges and advantages vested in the person so dismissed or ceasing to belong to the said office, shall immediately cease and determine.

XXV. And be it further enacted, for the purpose of ensuring competency and fidelity in the watchmen and patrols employed by the aldermen and common council of the city of *London*, and the vestries and other parochial and local authorities within the limits of the weekly bills of mortality and the parishes herein-before mentioned, when any case of incompetency negligence misconduct or delinquency shall appear to any two justices of the peace acting within the said city or limits and parishes, against any such watchman or patrol, it shall be lawful for the said two justices by writing under their hands and seals to declare the same, and to pronounce the man, so found incompetent or guilty of such negligence misconduct or delinquency, to be either suspended for a limited time or absolutely dismissed from his office as they shall think proper; and to give notice of such suspension or dismissal to the alderman and common council of the ward if in the city of *London*, or to the vestry or other authority by whom such watchmen or patrol was appointed; and every such watchman or patrol shall be incapable of being re-appointed either for the same or any other ward parish or place while such suspension or dismissal shall remain in force; and if no watchman or patrol shall be appointed by the alderman and common council of the ward or by the vestry or other proper authority, at their next meeting after such notice shall be delivered to the deputy of the ward, or to the clerk or secretary of such vestry or other proper authority, or left at the house or office where their business is usually transacted, the said justices shall appoint a successor, who shall exercise and enjoy the said duties and powers and receive the same pay emolument and allowances as if regularly appointed.

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1 & 2
Geo. IV.
c. 118.

17 Geo. 2. c. 5.

Officers and
Patrols of Bow-
street Office to
act as Consta-
bles.

For the Regu-
lation of Parish
Watchmen, &c.

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c. 118.

*Age of Watchmen, &c.

† Allowance to superannuated Watchmen.

For enabling Constables at Watch-houses to take Bail at Night.

In default of Appearance Recognition to be forfeited.

Time of Hearing may be postponed.

Penalty for damaging, &c. Boats belonging to Thames Police.

XXVI. And be it further enacted, That no man shall hereafter be appointed within the limits and parishes aforesaid, by any authority whatsoever, to be a watchman or patrol, who shall be above the age of forty years, unless he shall have been previously and up to the time of such appointment employed in the said horse or foot patrol.*

XXVII. And be it further enacted, That it shall be lawful for the alderman and common council of the respective wards in the city of London and liberties thereof to make such allowance to superannuated watchmen headles or patrols as they shall think proper, to be paid out of the watch rate to be raised in such wards respectively.†

XXVIII. And be it further enacted, That for the better administration of the police within the limits and parishes aforesaid it shall be lawful for the constable or headborough attending at any watch-house within those limits and parishes between the hours of eight in the afternoon and six in the forenoon, to take bail by recognisance without any fee or reward from any person who shall be brought into his custody within the said hours without the warrant of a justice charged with any petty misdemeanor, if such constable shall deem it prudent to take such bail for the appearance of such person before the justices at the said Public Office in Bow-street or at one of the said police offices to be specified in the recognisance for examination at the hour of ten in the forenoon next after such recognisance shall be taken, unless that hour shall fall on a Sunday, or on one of the days of absence allowed by this Act, and in that case at the like hour on the succeeding day; and that every recognisance so to be taken shall be of equal obligation on the parties entering into the same and liable to the same proceedings for the estreating thereof, as if the same had been taken before one of his Majesty's justices of the peace; and the constable or headborough shall enter in a book to be kept for that purpose in every watch-house the names residence and occupation of the party and his sureties entering into such recognisance, together with the condition thereof and the sums respectively acknowledged, and shall lay the same before such justice as shall be present at the time and place when and where the party is required to appear; and if the party does not appear at the time and place required, or within one hour after, the justice shall cause a record of the recognisance to be drawn up to be signed by the constable or headborough, and shall return the same to the next general or quarter sessions of the peace with a certificate at the back thereof signed by such justice, that the party has not complied with the obligation therein contained, and the clerk of the peace shall make the like estreats and schedules of every such recognisance as of recognisances forfeited in the sessions of the peace; and if the party not appearing shall apply by any person on his behalf to postpone the hearing of the charge against him, and the justice shall think fit to consent thereto, the justice shall be at liberty to enlarge the recognisance to such further time as he shall appoint; and when the matter shall be heard and determined either by the dismissal of the complaint or by finding the party over to answer the matter thereof at the sessions or otherwise, the recognisance for the party's appearance before the justices shall be discharged without fee or reward.

XXIX. And be it further enacted, That if any person shall wilfully destroy or damage or endeavour to destroy or damage or be wilfully concerned in destroying or damaging or endeavouring to destroy or damage any boat belonging to or hired or employed by or by the authority of the justices appointed to attend at the Thames police office, or any part of the sails oars or other tackle stores goods or furniture contained in or belonging to any such boat, every person so offending shall forfeit and pay for every boat so destroyed or damaged or attempted to be destroyed or damaged, or of which any of the tackle or other contents shall have been so destroyed or damaged or attempted to be destroyed or damaged any sum not exceeding thirty pounds, or shall suffer imprisonment for any time not exceeding three months over and above any such damages as may be recoverable by action at law against any such offender.

XXX. And be it further enacted, That it shall be lawful for every such *Thames* police surveyor (subject to the orders of the said justices appointed to attend the *Thames* police office), having just cause to suspect that any felony has been or is about to be committed in or on board of any ship hoy barge lighter boat or other vessel lying or being in the said river docks or creeks, to enter at all times as well by night as by day into and upon every such ship hoy barge lighter boat or other vessel, and therein to take all necessary measures for the effectual prevention or detection of all felonies which he has just cause to suspect to have been or to be about to be committed in and upon the said river docks or creeks, and to apprehend and detain all persons suspected of being concerned in such felonies and also all property so suspected to be stolen, and the same to produce before some justice to be dealt with according to law.

XXXI. And be it further enacted, That it shall be lawful for every such *Thames* police surveyor at any time between sun-rising and sun-setting to enter any ship or vessel (except his Majesty's ships) in the said river docks and creeks and to search the same for unlawful quantities of gunpowder, and also to exercise the same powers of seizing removing to proper places and detaining all such unlawful quantities of gunpowder found on board any such ship or vessel and the barrels or other packages in which such gunpowder shall be, as are given to persons searching for unlawful quantities of gunpowder under a warrant of a justice, by virtue of an Act passed in the twelfth year of his late Majesty's reign, intituled *An Act to regulate the making keeping and carriage of Gunpowder within Great Britain, and to repeal the Laws heretofore made for any of those Pur-*

poses.

XXXII. And be it further enacted, That it shall be lawful for any *Thames* police constable or surveyor or any other peace officer within his jurisdiction to stop search and detain in some place of safety any boat which there shall be reason to suspect of having any ropes cordage tackle apparel furniture stores materials or any part of any cargo or lading stolen or unlawfully procured from or out of any ship boat barge lighter or craft in the said river docks or creeks or from any wharf quay or landing place adjacent to the said river docks or creeks; and also to apprehend and detain or cause to be apprehended and detained any person who may be reasonably suspected of having or conveying any such articles in such boat; and such person so apprehended shall be (as soon as conveniently may be) conveyed before some justice of the peace; and if such person shall not produce the party or parties from whom he or she bought or received such articles or some credible person to depose upon oath the sale or delivery thereof or shall not give an account to the satisfaction of such justice how he or she came by the same, then the person so apprehended shall be deemed and adjudged guilty of a misdemeanor, and shall suffer as herein-after mentioned; and such boat, with her tackle apparel furniture and lading, shall upon such conviction be forfeited and disposed of as is herein-after directed.

XXXIII. And be it further enacted, That every *Thames* police constable and surveyor and every other peace officer within his jurisdiction shall and may apprehend and detain or cause to be apprehended and detained every person who may reasonably be suspected of having or carrying any ropes cordage tackle apparel furniture stores materials or any part of any cargo or lading, stolen or unlawfully procured from or out of any ship boat barge lighter or craft in the said river docks or creeks, or from any wharf quay or landing place adjacent to the said river docks or creeks; and also shall and may seize all such articles and detain them in some place of safety, and shall as soon as conveniently may be convey or cause every person so apprehended to be conveyed before some justice of the peace; and if such person shall not produce the party or parties from whom he or she bought or received such articles, or some credible person to depose upon oath the sale or delivery thereof, or shall not give an account to the satisfaction of such justice how he or she came by the

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c. 118.

Surveyors having just Cause to suspect Felony, may enter on Vessels and take up suspected Persons.

Unlawful Quantities of Gunpowder may be seized.

12 Geo. 3. c. 61.

Where Boats are suspected to have any stolen Ropes, &c. on board, they may be detained,

and the Persons suspected of having conveyed the stolen Articles on board may be taken before a Justice, &c.

Constables, &c. may seize all Ropes, &c. suspected to be stolen from out of Vessels in the River, and carry the Persons concerned therein before a Justice, &c.

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Geo. IV.
c. 118.

On Information that there is reasonable Cause for suspecting that any of the Cargo of any Vessel or any of his Majesty's Stores, &c. have been unlawfully obtained, and are concealed, how to proceed.

Party from whom Goods bought to be examined by the Justice.

If Goods are found to be unlawfully obtained, Party adjudged to be guilty of a Misdemeanor,

same, then the person so apprehended shall be deemed and adjudged guilty of a misdemeanor, and shall suffer as herein-after mentioned.

XXXIV. And be it further enacted, That if on information given on oath it shall appear to any justice that there is reasonable cause for suspecting that any materials furniture stores or any part of the cargo of any ship or vessel lying or being in the said river docks or creeks or any stores belonging to his Majesty or consigned to any person for his Majesty's service have been stolen or unlawfully obtained from or out of any such ship or boat barge lighter or craft lying or being in the said river docks or creeks, or from any wharf quay or other landing place adjacent to the same, or from or in the way to or from any warehouse into or from which such articles had been removing or removed to or from any such wharf quay or landing place, and that such articles after having been so stolen or unlawfully obtained are concealed or otherwise lodged in any dwelling house warehouse yard garden or any other place, it shall be lawful for such justice by special warrant under his hand and seal, directed to any *Thames* police constable or surveyor as aforesaid or other constable within his jurisdiction, to cause every such place to be searched at any time of the day or by night if power for that purpose be especially given in and by such warrant; and the said justice if it shall appear to him necessary may moreover empower such constable or surveyor, with any such assistance as to the said justice may appear or by such constable or surveyor may be found necessary (such constable or surveyor having previously made known such his authority), to use force for the effecting of such entry whether by breaking open doors or otherwise; and if upon search thereupon made any such suspected article shall be found, then to convey the same forthwith to and before a justice or to guard the same on the spot while the offenders are taken before a justice or otherwise dispose thereof in some place of safety, subject to the orders of a justice in manner above-mentioned; and moreover to apprehend and convey before the said justice the person or persons in whose house lodging or other place the same shall so have been found, as also every other person found in such house lodging or place, who shall appear to have been privy to the depositing of such article in such place, knowing or having reasonable cause to suspect the same to have been stolen or otherwise unlawfully obtained; and if such persons respectively shall not immediately or within some reasonable time to be assigned by the justice, make it appear to the satisfaction of the justice by what lawful means such article or articles came to be deposited or situated in such place as aforesaid without any default on the part of such persons respectively, or that they respectively did not know that the same were or by what means the same were deposited or situated in such place, then and in such case the person or persons in whose house lodging or other place any such suspected article was found, and also every other person so appearing to have been privy to the depositing thereof, knowing or having cause to suspect the same to have been stolen or otherwise unlawfully obtained, shall be deemed and adjudged guilty of a misdemeanor and shall suffer as herein-after mentioned.

XXXV. Provided always and be it further enacted, That if any person on being so produced before any justice to give an account of any articles seized and detained in any of the cases aforesaid, shall declare himself or herself to have bought received or otherwise obtained such articles of some other person, such justice is hereby authorised and required to examine every such other person and also every other prior purchaser or pretended purchaser; and if upon the whole of the evidence it shall appear to the satisfaction of such justice that the party so suspected at the time of his or her receiving such articles into his or her possession did believe or had reasonable cause to believe that the same were at any time and by any person unlawfully come by or obtained, it shall be lawful for such justice to adjudge such party to be guilty of misdemeanor, and the party so convicted shall thereupon suffer as herein-after mentioned.

XXXVI. And for the more effectual prevention of accidents by fire and other mischiefs upon the said river, Be it further enacted, That if any master or commander or other officer of any ship or vessel (except his Majesty's ships) shall while such ship or vessel shall lie or be in the said river between *Westminster Bridge* and *Blackwall* keep any gun on board such ship or vessel shotted or loaded with ball, or cause or permit to be fired or discharged any gun on board such ship or vessel before sun-rising or after sun-setting, such master commander or other officer shall for every such gun so kept shotted or loaded forfeit the sum of five shillings; and for every gun so fired or discharged the sum of ten shillings; and if any master commander or other officer of any such ship or vessel or any other person on board of the same or any person on board of any barge lighter boat or other craft or vessel shall while such ship barge lighter boat craft or vessel shall lie or be in the said river between *Westminster Bridge* and *Blackwall* heat or melt or cause or permit to be heated or melted by fire logger-heat shot or any other means on board any ship barge lighter boat craft or vessel whatever any pitch tar rosin grease tallow oil or other combustible matter, every person so offending shall for every such offence forfeit any sum not exceeding five pounds, and any one of the justices appointed to attend at the *Thames* police office or any other justice within his jurisdiction is hereby authorised and required upon any information exhibited or complaint made in that behalf within ten days next after any such offence shall have been committed to summon the party accused and also the witnesses on either side, or after oath made of the commission of any of the facts above-mentioned by one or more credible witness or witnesses to issue a warrant to apprehend the party accused, and upon the party's appearance or contempt in not appearing (upon the proof of notice given) such justice shall proceed to the examination of the witness or witnesses on oath, and upon due proof thereof, either by the voluntary confession of the party or by the oath of one or more credible witness or witnesses, to give judgment or sentence; and in case the party accused shall be convicted of such offence, it shall and may be lawful for such justice to commit such offender to prison, there to remain for any time not exceeding the space of two months unless the penalty shall be sooner paid; and if any person shall find himself aggrieved by the judgment of any such justice, he may appeal to the next court of general quarter sessions for the county or city where such offence shall have been committed on giving immediate notice of such appeal and finding sufficient security to the satisfaction of such justice for prosecuting such appeal with effect and for abiding the determination of the court therein; and the said court are hereby empowered to summon and examine witnesses upon oath and finally to hear and determine the matter, and in case the judgment shall be affirmed to award the person appealing to pay such costs occasioned by such appeal as shall seem meet; and one moiety of all money recovered on account of every such penalty shall be distributed at the discretion of the justice making the conviction to such person or persons as he shall judge to have been instrumental in detecting and prosecuting the offender.

XXXVII. And be it further enacted, That every person who for the purpose of protecting or preventing any goods wares merchandize or other articles whatsoever from being seized on suspicion of their being stolen or otherwise unlawfully obtained, or of preventing the same from being produced or made to serve as evidence of or concerning any felony or misdemeanor, shall frame or cause to be framed or be anywise concerned in framing for causing to be framed any bill of parcels containing any false statement in regard to the name or abode of any alleged vendor, the quantity or quality of any goods, the place from whence or the conveyance by which the same were furnished, the price agreed upon or charged for the same, or any other particular, knowing such statement to be false, or who shall fraudulently produce such bill of parcels knowing the same to have been fraudulently framed, shall be adjudged guilty of a misdemeanor and shall suffer as herein-after mentioned, and may moreover at the discretion of any justice in whose jurisdiction such offence shall be

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c. 118.

Penalty on Masters of Vessels between Westminster Bridge, and Blackwall, having on board Guns loaded with Ball, or discharging Guns before Sun-rising or after Sun-setting, and also for heating of Tar and other combustible Matter on board of Vessels.

Framing a false Bill of Parcels to escape Detection deemed a Misdemeanor.

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1 & 2
Geo. IV.
c. 118.

Penalty for
breaking, &c.
Packages, with
an Intent that
the Contents
may be spilled.

Wilfully letting
fall Articles
into the
Thames, or
into a Boat, &c.
with fraudulent
Intention, how
to be punished.

committed be published and advertised as a fabricator of false bills of parcels or as a convicted or reputed receiver of goods stolen or otherwise unlawfully obtained, as the case may be.

XXXVIII. And whereas for the purpose of increasing the facility of depredation it hath been a common practice among persons concerned in the landing and warehousing of merchandize from on board ships and vessels in the said river wilfully to injure and promote the opening and breaking of casks bags and other packages and the spilling of their contents; For remedy thereof, Be it further enacted, That if any person employed in the loading and landing or warehousing of any goods or any other person shall wilfully or through culpable negligence or carelessness cause or suffer or be concerned in causing or suffering to be broken bruised pierced started cut torn or otherwise injured any cask box chest bag or other package containing or being designed and prepared for containing any goods while on board of any barge lighter or other craft lying or being in the said river or any dock creek quay wharf or landing place adjacent to the same, or in or in the way to or from any warehouse to or from which such package shall have been removed shall be removing or about to be removed, with intent that the contents of such package or any part thereof may be spilled or dropped from such package, every person so offending shall for every such offence be deemed and adjudged guilty of a misdemeanor and shall suffer as herein-after mentioned.

XXXIX. And be it further enacted, That if for the purpose of preventing the seizure or discovery of any materials furniture stores or merchandize belonging to or having been part of the cargo of any ship or vessel lying in the said river or the docks or creeks adjacent thereto, or of any other articles unlawfully obtained from any such ship or vessel, any such or any other article shall be wilfully let fall or thrown into the river or in any other manner directly or purposely conveyed away or endeavoured to be conveyed away from any ship boat barge lighter craft wharf quay or other landing place, every person being party privy or accessory to such letting fall throwing or conveyance or to any previous instructions or premeditated design so to let fall throw or convey away any such article with any such purpose as aforesaid, shall be deemed and adjudged guilty of a misdemeanor; and if any article whatever of apparent value shall be wilfully let fall thrown conveyed away or endeavoured to be conveyed away from any ship boat barge lighter or craft into any other boat barge lighter or craft or from any wharf quay or other landing place without the order assent or privy of the owner or of the person having the lawful charge of such article, it shall be lawful for any such *Thames police* constable or surveyor or for any constable of the city of *London* within the jurisdiction of the said city to seize apprehend and secure any such boat barge lighter or other craft in which such article shall be so let fall thrown or conveyed away, and every person therein or who by reason of his or her nearness to the place where such offence shall be committed shall be reasonably suspected by such constable or surveyor of being party privy or accessory thereto, and forthwith to convey every such person so apprehended before one of the said justices appointed to attend at the *Thames police* office or some other justice in whose jurisdiction such offence shall be committed; and if upon examination it shall not be made appear to the satisfaction of the justice before whom the offender shall be carried that such letting fall throwing or conveying away or endeavour to convey away proceeded either from mere accident or from some lawful cause and not from any such fraudulent or evasive design as aforesaid, every person so appearing to be party privy or accessory as aforesaid shall be deemed and adjudged guilty of a misdemeanor and shall suffer as herein-after-mentioned.

XL. And be it further enacted, That for every offence herein-before declared to be a misdemeanor or for which no special penalty is herein-before appointed, the offender shall at the discretion of the justice before whom the conviction shall take place either forfeit and pay any sum not exceeding five pounds or suffer imprisonment for any time not exceeding

For Offences
declared Mis-
deemeanors, and
for which no
Penalty is ap-
ed, Offenders shall forfeit not exceeding 5*l.* or be imprisoned.

two months in any gaol or house of correction within the jurisdiction of such justice; and in case of the adjudication of a pecuniary penalty and non-payment thereof, it shall be lawful for such justice to commit the offender to any gaol or house of correction for the like term unless such penalty shall be sooner paid; and one moiety of every such pecuniary penalty shall be paid to such receiver as aforesaid for the purposes of this Act, and the other moiety thereof under the direction of the justice by whom the same shall have been adjudged shall either be paid and applied to the use of the informer alone, or be distributed between such persons as shall have contributed to the conviction of the offender, in such shares and proportions as such justice shall think fit.

XLI. And be it further enacted, That in every case in which complaint shall be made or information given of any offence by this Act declared to be a misdemeanor or for which any pecuniary penalty is hereinbefore appointed with or without imprisonment in addition thereto or in lieu thereof, the matter of such complaint or information, if the offence shall have been committed or the offender apprehended within the jurisdiction of the city of *London*, may be heard and determined by the Lord Mayor Recorder or one of the Aldermen of the said city and not elsewhere; but if the offence shall have been committed or the offender apprehended out of the said jurisdiction, such complaint or information may be heard and determined either by one of the justices appointed to the *Thames* police office as aforesaid or by any other justice within whose jurisdiction the offence shall have been committed or the offender apprehended; and every conviction thereupon had shall be certified filed and entered in such manner as is directed in and by an Act of the second year of his late Majesty's reign, intituled *An Act to prevent the committing of Thefts and Frauds by Persons navigating Bum-boats and other Boats upon the River Thames* with respect to convictions under that Act, and may also be drawn up in such form and manner *mutatis mutandis* as is appointed in and by the said Act; and neither such conviction nor any proceeding previous thereto shall be removed by *certiorari* or otherwise into any court of record, but such conviction shall be final and conclusive to all intents and purposes whatsoever.

XLII. And whereas the punishments for misdemeanors provided in and by the said Act of the second year of his late Majesty's reign have been found insufficient for the preventing of such offences; Be it enacted, That every person who shall be guilty of any of the offences respectively made and declared to be misdemeanors in and by the said Act may be punished at the discretion of the justice or justices by or before whom the offender shall be convicted, either with the punishment appointed in and by the said Act or by such other punishment as is hereby appointed for and in cases of offences declared to be misdemeanors in and by this present Act.

XLIII. And be it further enacted, That in all cases in which it is directed by the said last recited Act that any boat with her tackle and appurtenances which shall be forfeited shall be burnt and destroyed, it shall be lawful for any justice before whom any person shall have been convicted of any offence whereby any boat is or should be adjudged to be forfeited under that Act, and also for any justice by whom any boat shall be adjudged to be forfeited under this Act, either to direct such boat with her tackle and appurtenances to be burnt and destroyed, or to be restored to the owners thereof, or to be publicly sold, and the produce of such sale to be applied in like manner as all other cases of forfeitures under this Act.

XLIV. And whereas disputes frequently arise between bargemen lightermen watermen ballastmen coal whippers coal porters sailors lumpers riggers shipwrights caulkers and other labourers who work for hire in or upon the said river and the docks creeks wharfs quays and places adjacent, respecting wages or money due to them for work, and the owners masters or commanders of vessels and their agents and the owners wharfingers or occupiers of such wharfs or quays and their agents

to be settled by Justices, provided the Sum in question does not exceed 5*l*.

No.
XXVIII.
1 & 2
Geo. IV.
c. 118.

Offences how
to be tried.

2 Geo. 3. c. 28.

Misdemeanors
under recited
Act 2 Geo. 3.
c. 28. to be
punished at the
discretion of the
Justice.

Forfeited Boats,
instead of being
burnt, may be
restored or sold.

Disputes about
Wages for La-
bour done on
the River, &c.
(except by Tri-
nity Ballast-
men) to be set-

No.
XXVIII.
1 & 2
Geo. IV.
c. 118.

and other persons employing such labourers: Be it further enacted, That all differences complaints and disputes which shall happen and arise between any bargemen lightermen watermen ballastmen (except Trinity ballastmen) coal whippers coal porters sailors lumpers riggers shipwrights caulkers or other labourers who work for hire in or upon the said river or the docks creeks wharfs quays or places adjacent, and the owners masters or commanders of vessels or their agents on the said river or the docks or creeks thereunto adjoining or the owners wharfingers or occupiers of such wharfs or quays or their agents or other employers respecting wages or money due to such labourers for work, whether the same persons be employed for any certain time or in any other manner, shall be heard and determined by the justices appointed to the *Thames* police office, or any one of them, or any other justice within his jurisdiction; and every such justice is hereby empowered to summon before him any such master or commander of any vessel or any such owner thereof or his agent, or the owner wharfinger or occupier of any wharf or quay or their respective agents, or any other employer; and if any such master commander owner wharfinger occupier agent or employer shall refuse or neglect to attend such summons, then every such justice is hereby empowered to issue his warrant to bring such person summoned before him to answer such complaint, and to examine upon oath any such bargeman lighterman waterman ballastman (other than any Trinity ballastman) coal whipper coal porter sailor lumper rigger shipwright caulker or other labourer, or any other witness or witnesses touching any such complaint or dispute, and to make such order for payment of so much wages to such bargeman lighterman waterman ballastman (other than any Trinity ballastman) coal whipper coal porter sailor lumper rigger shipwright caulker or other labourer as to such justice shall seem just and reasonable; provided that the sum ordered do not exceed five pounds, besides all reasonable costs attending the prosecution of the complaint, which costs the justice is empowered to order; and in case of refusal to pay, or non-payment of any sum so ordered by the space of twenty-four hours next after such determination, such justice may issue forth his warrant to levy the same by distress and sale of the goods and chattels of the person ordered to pay the same, together with the charges of such distress and sale; and if no sufficient distress shall be found, such justice shall commit the person ordered to make such payment to prison for any time not exceeding one month, unless the sum so ordered shall be sooner paid; and every such order shall be final and conclusive to all intents and purposes, and shall not be removable by *certiorari* or otherwise into any court whatsoever.

Jurisdiction for
determining
Disputes about
Wages for La-
bour done on
the Thames, &c.

XLV. Provided always and be it further enacted, That nothing herein contained shall extend to authorize or empower any justice, except the lord mayor, aldermen, and recorder of the city of *London* for the time being, or some or one of them, to hear and determine any such differences complaints or disputes as shall or may arise for or in respect of any employment or work done within the said city of *London* or the suburbs and liberties thereof, or on board of any ship hoy barge lighter boat or other vessel lying or being on the north side of the river, between the Tower of *London* and the western extremity of the Temple adjoining *Essex-street*, in the county of *Middlesex*.

Not to affect
the Rights of
the City of Lon-
don.

XLVI. Provided always and be it further enacted, That nothing in this Act shall extend to deprive the lord mayor and commonalty and citizens of the city of *London* of any right privilege or jurisdiction heretofore lawfully claimed exercised or enjoyed within the town and borough of *Southwark* or the liberties thereof, or to prevent the said lord mayor for the time being, or such of the aldermen of the said city as have borne the office of mayoralty, or the recorder of the said city for the time being, from acting as justices of the peace within the said town and borough of *Southwark* and the liberties thereof, in such and the like manner as they could or might have done in case this Act had not been made; nor to deprive the lord mayor and commonalty and citizens of the said city of any right privilege immunity or jurisdiction which

they have heretofore lawfully claimed exercised or enjoyed upon the said river, or the lord mayor of the said city for the time being as conservator of the said river; nor to prevent the said lord mayor and the said alderman and recorder of the said city from acting as justices of the peace upon the said river or taking cognizance of offenders committed upon or within the limits of the same, in such manner as they might or would have done in case this Act had not been made.

XLVII. Provided also, and be it further enacted, That nothing in this Act shall extend to deprive the dean and chapter of the collegiate church of *Saint Peter Westminster* or the high steward or high bailiff of the city and liberty of *Westminster* for the time being, or their respective lawful deputy, of any rights privileges or jurisdictions which they have heretofore lawfully claimed exercised or enjoyed within the said city and liberty, in such and the like manner as they could or might have done in case this Act had not been made.

XLVIII. Provided also, and be it further enacted, That nothing in this Act contained shall extend to prejudice or derogate from any of the rights privileges or authorities of the master warden and assistants of the guild fraternity or brotherhood of the most glorious and undivided Trinity, and of *Saint Clement*, in the parish of *Deptford Strond*, in the county of *Kent*.

XLIX. And be it further enacted, That this Act shall be deemed adjudged and taken to be a public Act; and shall be judicially taken notice of as such by all judges justices and other persons whomsoever, without the same being specially pleaded.

No. XXIX.

4 Geo. IV.
c. 23.Nor the Dean
or High Stew-
ard of West-
minster.Not to affect
the Rights of
the Trinity
Brethren, &c.

Public Act.

[No. XXIX.] 4 Geo. IV. c. 23.—An Act to facilitate Summary Proceedings before Justices of the Peace and others.—[15th May 1822.]

WHEREAS great inconveniences often arise in summary proceedings before justices of the peace deputy lieutenants and others, from the want of a general form of conviction: Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That from and after the passing of this Act, in all cases wherein a conviction shall have taken place, and no particular form for the record thereof hath been directed, the justice or justices, deputy lieutenant or deputy lieutenants, or other person or persons duly authorized to proceed summarily therein, and before whom the offender or offenders shall have been convicted, shall and may cause the record of such conviction to be drawn up in the manner and form following, or in any words to the same effect, *mutatis mutandis*; (that is to say),

County [or, as
the case may be]
of } BE it remembered, That on the day of
in the year of our Lord
at in the county of
A. B. of in the county of
labourer, [or, as the case may be] personally came before me, (or before
us, &c.) C. D. one [or more, as the case may be] of his Majesty's justices
of the peace for the said and informed me, (or us,
&c.) that E. F. of in the county of
on the day of at
in the said did [here set forth the
fact for which the information is laid] contrary to the form of the statute
in such case made and provided, whereupon the said E. F. after being
duly summoned to answer the said charge, appeared before me, (or us,
&c.) on the day of at
in the said and having heard the charge con-
tained in the said information, declared he was not guilty of the said
offence, [or, as the case may happen to be,] did not appear before me, (or
us, &c.) pursuant to the said summons, [or, did neglect and refuse to
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General Form
of Conviction,
where no parti-
cular Form
provided.

No. XXIX.

4 Geo. IV.

c. 23.

' make any defence against the said charge] ; whereupon I [or we, &c. or, nevertheless I, or we, &c.] the said justice or justices did proceed to examine into the truth of the charge contained in the said information, and on the day of aforesaid, at the parish of aforesaid, one credible witness, to wit, A. W. of in the county of upon his oath deposeth and saith, [if E. F. be present, say, in the presence of the said E. F.] that, within months [or, as the case may be] next before the said information was made before me (or us, &c.) the said justice by the said A. B., to wit, on the day of in the year the said E. F. at in the said county of [here state the evidence, and as nearly as possible in the words used by the witness, and if more than one witness be examined, state the evidence given by each] [or, if the defendant confess, instead of stating the evidence say] and the said E. F. acknowledged and voluntarily confessed the same to be true] ; therefore it manifestly appearing to me (or us, &c.) that he the said E. F. is guilty of the offence charged upon him in the said information, I (or, we, &c.) do hereby convict him of the offence aforesaid, and do declare and adjudge, that he the said E. F. hath forfeited the sum of of lawful money of Great Britain, for the offence aforesaid, to be distributed [or paid, as the case may be] according to the form of the statute in that case made and provided. Given under my hand (or, our hands, &c.) and seal, the day of in the year of our Lord

One Justice, &c., may receive original Information, &c., where Two or more Justices, &c., empowered to hear and determine.

II. And be it further enacted, That in all cases where two or more justices, deputy lieutenants or others, are authorized and required to hear and determine any complaint, one justice, deputy lieutenant, or such other person shall be competent to receive the original information or complaint, and to issue the summons or warrant requiring the parties to appear before two or more justices of the peace, deputy lieutenants or others, as the case may require ; and after examination upon oath into the merits of the said complaint, and the adjudication thereupon, by any such two justices deputy lieutenants or other persons, being made, all and every the subsequent proceedings to enforce obedience thereto or otherwise, whether respecting the penalty, fine, imprisonment, costs, or other matter or thing now enacted or to be hereafter enacted, may be enforced by either of the said justices deputy lieutenants or other persons, or any other justice of the peace or deputy lieutenant for the same county riding or place, in such and the like manner as if done by the same two justices deputy lieutenants or other persons who so heard and adjudged the said complaint ; and where the original complaint or information shall be made to any justice or justices of the peace deputy lieutenant or deputy lieutenants, or other person or persons different from him or them before whom the same shall be heard and determined, the form of conviction shall be made conformable and according to the fact.

Where the Merits have been tried, Convictions not to be set aside for Defect of Form.

III. And be it further enacted, That in all cases where it appears by the conviction that the defendant has appeared and pleaded, and the merits have been tried, and that the defendant has not appealed against the said conviction where an appeal is allowed, or if appealed against, the conviction has been affirmed, such conviction shall not afterwards be set aside or vacated in consequence of any defect of form whatever, but the construction shall be such a fair and liberal construction as will be agreeable to the justice of the case.

This Act not to extend to Scotland.

IV. And be it further enacted, That nothing herein contained shall extend, or be construed to extend, to that part of the United Kingdom called Scotland.

No. XXX.
3 Geo. IV.
c. 55.



[No. XXX.] 3 Geo. IV. c. 55.—An Act for the more effectual Administration of the Office of a Justice of the Peace, in and near the Metropolis, and for the more effectual Prevention of Depredations on the River *Thames*, and its Vicinity, for Seven Years.—[5th July 1822.]

WHEREAS it is expedient that the provisions of an Act made in the last session of Parliament, intituled “An Act for the more effectual Administration of the Office of a Justice of the Peace in and near the Metropolis, and for the more effectual Prevention of Depredations on the River *Thames* and its Vicinity, for One Year,” should be continued and amended: May it therefore please your Majesty that it may be enacted; and be it enacted by the King’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That the several police offices now established in the parishes of *Saint Margaret Westminster*, *Saint James Westminster*, *Saint Mary-le-bone*, *Saint Andrew Holborn*, *Saint Leonard Shoreditch*, *Saint Mary Whitechapel*, and *Saint John Wapping*, in the county of *Middlesex*, and *Saint Saviour* in the county of *Surrey*, shall be continued; and that the several persons heretofore appointed to execute the duties of a justice of the peace at the police offices now established under the said recited Act, shall continue to execute the same at the said eight police offices, together with such other justices of the peace for the said counties respectively as may think proper to attend thereat; and that it shall be lawful for his Majesty, his heirs and successors, upon every vacancy, by death or otherwise, to appoint another fit person, being a justice of the peace of the said counties of *Middlesex* and *Surrey* respectively, to execute the duties of a justice of the peace at the said several police offices, in lieu of the person making such vacancy.

II. And be it further enacted, That one or more of the said justices so appointed shall diligently attend at each of the said police offices every day, from ten of the clock in the morning until eight of the clock in the evening, and at such other times and places as shall be found necessary, and directed by one of his Majesty’s principal secretaries of state; and that two of the said justices shall in like manner attend together at each of the said offices from twelve of the clock at noon until three in the afternoon: Provided always, that no such attendance shall be given on *Sunday*, *Christmas Day*, *Good Friday*, or any day appointed for a public fast or thanksgiving, unless in cases of urgent necessity, or when it shall be directed by such principal secretary of state.

III. And be it further enacted, That the present receiver for the said police offices shall continue such receiver, and that it shall be lawful for his Majesty, his heirs and successors, upon any vacancy in the said office of receiver, by death or otherwise, to appoint any other proper person, not being one of the justices appointed to act at either of the said police offices, to be the receiver of the said eight police offices; and that the said receiver for the time being shall receive all fees penalties and forfeitures, and other sums of monies applicable to the purposes of this Act, and shall keep an exact and particular account of all such monies as shall be received by him, and shall apply the same quarterly in discharge of the salaries expences and charges attending the said police offices, and in carrying this Act into execution; and shall make all such contracts and disbursements as shall be necessary for purchasing, hiring, fitting up, and furnishing proper and sufficient houses and buildings wherein the said eight police offices shall be held, in such manner as his Majesty his heirs and successors, by and with the advice and consent of his or their privy council, shall think proper to direct and appoint; of which houses and buildings so to be hired or purchased, and of all houses and buildings already hired or purchased for the like

3 Geo. IV.
c. 55.

1 & 2 G. 4.
c. 118.

The Public
Offices now
established shall
be continued.

Justices to Act.

His Majesty
may appoint
Justices to fill
up Vacancies.

Time of At-
tendance.

Receiver to be
continued in
Office; and in
case of Death,
His Majesty
may appoint
another.
His Duty.

No. XXX.

3 Geo. IV.

c. 55.

purposes, and of the fixtures and furniture thereof, and of all other necessities to be held or purchased for the purposes of this Act, the property acquired therein shall be vested in the receiver for the time being, who shall and may sell assign and dispose of the same or any part thereof, under the like directions and appointment, as occasion shall require; and such receiver shall prepare proper plans and estimates of all such contracts and disbursements as shall be necessary for the purposes aforesaid, and shall deliver the same to one of his Majesty's principal secretaries of state; and such receiver shall further do and execute all such other lawful matters and things towards the establishment of the said eight police offices, and towards the carrying this Act into execution, as his Majesty, his heirs and successors, by and with the advice of his or their privy council, shall from time to time think proper to direct.

Justices to employ Constables, subject to the Approbation of the Secretary of State.

IV. And be it further enacted, That the justices appointed as aforesaid, or any two of them in their respective offices, shall appoint retain and employ a sufficient number of fit and able men, subject to the approbation of one of his Majesty's principal secretaries of state, whom they are hereby authorized and empowered to swear in to act as constables, for preserving the peace and preventing robberies and other felonies, and apprehending offenders against the peace; which constables sworn shall within the counties of *Middlesex*, *Surrey*, *Essex*, and *Kent*, have all such powers, authorities, privileges, and advantages, as any constable duly appointed now has or hereafter may have by virtue of any law or statute now made or hereafter to be made; and shall obey all such lawful commands as they shall from time to time receive from the said justices respectively for the apprehending offenders, or otherwise conducting themselves in the execution of their offices; and such justices may at any time suspend or dismiss from his employment any such constable attached to their respective offices, whom they shall think remiss or negligent in the execution of his duty, or otherwise unfit for the same; and when any such constable shall be so dismissed, or cease to belong to any of the said offices, all powers and authorities vested in him as a constable under and by virtue of this Act shall immediately cease and determine, to all intents and purposes whatever.

Thames Police Surveyors to be appointed in like Manner.

V. And be it further enacted, That the justices appointed to the said police office in the parish of *Saint John Wapping*, commonly called the *Thames Police Office*, or any two of them, shall (subject to such approbation as aforesaid) appoint retain and employ any number of fit and discreet men, not exceeding thirty, who, under the name of *Thames* police surveyors, shall (being first duly sworn in manner above mentioned) have within the counties aforesaid the powers, authorities, privileges and advantages of a constable as aforesaid; and shall direct and inspect the conduct of the constables attached to the *Thames* police office, and of all persons to be employed in and about ships and vessels in the said river *Thames*, or in or on the several creeks, wharfs, quays, and landing places thereto adjacent, and (subject to the orders of the said last-mentioned justices) shall have power by virtue of their offices to enter at all times, as well by night as by day, into and upon every ship, hoy, barge, lighter, boat, or other vessel (not being then actually employed in his Majesty's service) lying or being in the said river or creeks, and into every part of every such vessel for the purpose of inspecting, and upon occasion directing the conduct of any constable who may be stationed on board of any vessel, and of inspecting and observing the conduct of all other persons who shall be employed on board of any vessel in or about the lading or unlading thereof, as the case may be, and for the purpose of taking all such measures as may be necessary for providing against fire and other accidents, and preserving peace and good order on board of any such vessel, and for the effectual prevention in all cases of any felonies or misdemeanors being committed, and for the effectual detection of any felonies or misdemeanors which may have been committed, or which such surveyor may have reasonable cause to suspect to have been committed on board any such vessel; and the justices appointed to

the said *Thames* police-office may at any time suspend or dismiss any such *Thames* police surveyor whom they shall find remiss or negligent in the execution of his duty, or otherwise unfit for the same; and when any such surveyor shall be so dismissed or cease to belong to the said office, all powers and authorities vested in him as such surveyor under and by virtue of this Act, shall immediately cease and determine to all intents and purposes whatever.

VI. And be it further enacted, That it shall be lawful for his Majesty, his heirs and successors, to direct that such sum shall be issued quarterly out of the Consolidated Fund of the United Kingdom of *Great Britain* and *Ireland* to the said receiver, as will be sufficient to pay the yearly salary of six hundred pounds, clear of all fees or deductions, to each of the justices so appointed to attend at the said police offices for their time and trouble; and such further sums as may be necessary for the expences of the offices and for the payment of clerks, constables, surveyors and others therein employed, and for the payment of the expences of the public office in *Bow-street*, and of the magistrates clerks and constables and others therein employed, and of the horse and foot patrol acting under the orders of the chief magistrate of that office; provided that the whole of the said charges shall not exceed the annual sum of sixty-eight thousand pounds over and above the necessary disbursements for purchasing, hiring, repairing, fitting up, and furnishing the houses and buildings wherein the said offices shall be held; and that the said receiver out of the monies so issued to him, shall and may pay to the constables and surveyors so appointed as aforesaid for their trouble and attendance, such sum as may from time to time appear reasonable to one of his Majesty's principal secretaries of state, and any extraordinary expences they shall appear to have been necessarily put to in apprehending offenders, and executing the orders of the justices acting under and by virtue of this Act; such extraordinary expences being first examined and approved of by the justices attending the police office to which such constables shall be respectively attached; and such further sum for rewarding the extraordinary diligence or exertion of any of the said constables or surveyors, and for compensating them for wounds or severe injuries received in the performance of their duties, and for and allowance of such of them as shall be completely disabled by bodily injury received, or shall be worn out by length of service, as shall be directed by such principal secretary of state.

VII. And be it further enacted, That no justice of the peace for the county of *Middlesex*, county of *Surrey*, city and liberty of *Westminster*, or liberty of the Tower of *London*, or his clerk, or any person on their behalf, elsewhere than at the said police offices, shall directly or indirectly upon any pretence or under any colour whatever, take or receive any fee, reward, gratuity, or recompence, for any Act by him or them done or to be done in the execution of his or their office or employ, as justice of the peace or clerk as aforesaid, within the limits of the weekly bills of mortality, or within the parishes of *Saint Mary-le-bone* *Paddington* *Saint Pancras* *Kensington* and *Saint Luke Chelsea*, in the said county of *Middlesex*, upon pain of forfeiting the sum of one hundred pounds for every such offence, one moiety thereof to the said receiver to be applied to the purposes of this Act, and the other moiety thereof, with full costs of suit, to the person who shall sue for the same in any of his Majesty's Courts of Record at *Westminster*, by action of debt, bill, plaint, or information, wherein no essoign, privilege, wager of law, or more than one imparlance shall be allowed: Provided always, That nothing in this Act contained shall be construed to extend to any fees taken at any general or quarter sessions of the peace, or at any meeting of justices for the purpose of licensing alehouses, or to any fees taken at the said public office in *Bow-street*, or to any fees taken by the vestry clerk of any parish for the purpose of enforcing the payment of any taxes or assessments arising within the same parish, or for the purpose of hearing and determining any offence cognizable before justices of the peace, by virtue of

No. XXX.
3 Geo. IV.
c. 55.

Justices to be allowed a Salary of 600*l.* per Annum.

Further Sums to be issued for Payment of Clerks, Constables, &c., and for *Bow-street* Office, and Horse and Foot Patrol.

No Justice shall take Fees but at the Public Offices.

Penalty, 100*l.*

Not to extend to Fees at Quarter Sessions, or Meeting of Justices for licensing Ale-houses, or to Fees taken at the Office in *Bow-street*, &c.

No. XXX.

3 Geo. IV.

c. 55.

Table of Fees
to be hung up.

26 G. 2. c. 14.

27 G. 2. c. 16.

any statute made and provided for the special regulation or government of such parish.

VIII. And be it further enacted, That in some conspicuous part of each of the said police offices and also of the said public office in *Bow-street*, there shall be affixed a table of the fees which may legally be taken at such offices respectively under an Act passed in the twenty-sixth year of the reign of King *George the Second*, intituled 'An Act for the settling and ascertaining the Fees to be taken by Clerks to Justices of the Peace;' and under another Act passed in the twenty-seventh year of the reign of King *George the Second*, intituled 'An Act for making perpetual several Laws for punishment of Persons destroying Turnpikes Locks or other Works erected by Authority of Parliament; and that all Acts made for erecting Courts of Conscience shall be deemed Public Acts; and to empower a certain Number of the Trustees of the *British Museum* to do certain Acts; and for confirming the Tables of Fees to be taken by the Clerks to the Justices of the Peace for the county of *Middlesex*; and for giving further time for the Payment of Duties omitted to be paid for the Indentures or Contracts of Clerks and Apprentices; and for filing Affidavits in the Execution of Contracts of Clerks to Attornies and Solicitors; and for preventing Persons driving certain Carriages from riding upon such Carriages;' and that it shall be lawful for any justice at such offices respectively to refuse to do any Act for which any fee shall be demandable, unless such fee shall be first paid; and that if any such Act shall be done and the fee due thereon shall not be paid, it shall be lawful for any justice of the peace to summon the person from whom such fee shall be due and to make order for payment of the same, with the costs of the proceedings, and in default of payment to levy the same, with the costs of the distress, by warrant under his hand and seal.

Account of
Fees and For-
feitures received
at the Police
Offices shall be
delivered quar-
terly to the
Receiver, and
the Amount
thereof paid to
him.

IX. And be it further enacted, That the justices so appointed to attend at the said police offices and their clerks respectively, shall in books to be provided for that purpose, keep a full true and particular account of all fees taken and received at each of the said offices, together with all penalties and forfeitures which shall have been recovered levied or received in pursuance of any adjudication conviction or order had or made at any of the said offices, or any process or warrant issuing from the same; to which books of account the said receiver shall at all times have free access; and the said justices shall once in every quarter of a year deliver unto such receiver such account verified upon oath by such justice or justices clerk or clerks, or such other person or persons as shall be employed in keeping such accounts respectively, or any part thereof, before some justice of the peace for the said county of *Middlesex* or county of *Surry*, and shall pay the amount of all such fees unto such receiver, to be applied in manner herein-before mentioned.

All Penalties
(except to In-
formers or Par-
ties aggrieved,
recovered at the
Police Offices,
shall be paid to
the Receiver.

X. And be it further enacted, That all such penalties and forfeitures and shares of penalties and forfeitures as are by any Act now in force, or shall be by any future Act (unless it shall contain express words to the contrary) limited and made payable to his Majesty, his heirs and successors, or to any description of persons other than the informer or informers who shall sue for the same, or any party aggrieved, and which shall be recoverable in a summary way before a justice or justices of the peace, and which shall be recovered or adjudged before any justice or justices at either of the said eight police offices, or at the said public office in *Bow-street*, shall be accounted for and paid into the hands of the said receiver by the justice clerk, constable, officer, or other person or persons, who shall levy or receive the same, to be applied by such receiver in manner herein-before mentioned.

If Fees and Pe-
nalties are not
accounted for,
Receiver may
sue for the same
in any Court of
law.

XI. And be it further enacted, That if the justices appointed as afore-said, or any other person having received any such fees at any of the said police offices, shall neglect to account for and pay the same in manner aforesaid; or if any justice, justice's clerk, constable, officer, or other person who shall levy or receive such penalties or forfeitures or shares of penalties or forfeitures, shall neglect to pay the same into the hands of such receiver; or if any person having resigned any such office of

receiver or having been removed from the same shall neglect within twenty-one days after notice for that purpose to account for and pay into the hands of the succeeding receiver all such sums of money as shall remain in his hands applicable to the purposes of this Act; it shall be lawful for such receiver for the time being in his own proper name only or by his name and description of office to sue for and recover the same with double costs of suit in any of his Majesty's Courts of Record at *Westminster*, by action of debt, in which action it shall be sufficient for such receiver to declare as for money had and received to the use of such receiver for the purposes of this Act; and the defendant or defendants in such action may, at the discretion of any judge of such court, be held to special bail in such competent sum as such judge shall order and direct; and in any such action the court in which such action shall be brought may, if such court shall think proper, at the instance of either of the parties, refer the account in dispute in a summary manner to be audited by any officer of the court or other fit person at their discretion, who may examine both plaintiff and defendant upon oath, (which oath the said referee shall have power to administer; and upon the report of such referee, unless either of the parties shall show good cause to the contrary, such court may make a rule either for the payment of such sum as upon such report shall appear to be due, or for staying the proceedings in such cause, and upon such terms and conditions as to the same court shall appear reasonable and just; or may order judgment to be entered up by confession for such sum as upon such report shall appear to be due.

XII. And be it further enacted, That in case of the death of any such receiver or of any person having resigned or been removed from such office, or of any of the other persons whom the said receiver for the time being is authorized to sue as aforesaid, in every such case the receiver for the time being may, in his own proper name only, or by his name and description of office sue for and recover such sum of money as shall have been remaining in the hands of such deceased receiver or other person applicable to the purposes of this Act, or the executors or administrators of such person deceased; in which action it shall be sufficient for the plaintiff to declare that the deceased was indebted to the plaintiff for money had and received to his use for the purposes of this Act, or that the deceased died possessed of money had and received for the purposes of this Act, whereby an action accrued to the plaintiff to demand and have the same of such executors or administrators; and the like action shall and may be brought against any executors or administrators of executors or administrators; in all which actions the defendant or defendants may plead in like manner and avail themselves of the like matters in their defence as in any action founded upon simple contracts of the original testator or intestate; and in all actions to be brought by such receiver by virtue of this Act, proof of the plaintiff's acting in the execution of such office shall be sufficient evidence of his holding the same, unless the contrary shall be shown in evidence by the defendant or defendants in such action.

XIII. And be it further enacted, That such receiver shall every three months and oftener if required, deliver to the lord high treasurer or the commissioners of his Majesty's treasury of the United Kingdom of *Great Britain* and *Ireland* for the time being, a full and particular account of all monies by him received and paid as aforesaid, with vouchers for the same; which account shall be verified upon oath before some justice or baron of one of his Majesty's Courts of Record at *Westminster*; and such receiver for his care and pains in the execution of such office shall and may retain to his own use out of the monies so received by him as aforesaid, a sum not exceeding four hundred pounds.

XIV. And be it further enacted, That no justice appointed as aforesaid shall, during his continuance in such appointment, be capable of being elected or of sitting as a member of the house of commons; and that no justice, receiver, surveyor, or constable appointed by virtue of this Act,

No. XXX.

8 Geo. IV.

c. 55.

Receiver may sue for Money in the Hands of deceased Receivers, and recover from Executors.

Receiver to render Accounts quarterly, or oftener if required. Allowance to the Receiver.

Justices not to sit in Parliament.

No Justice, Receiver, Surveyor, or Constable to vote at certain Elections.

No. XXX.
3 Geo. IV.
c. 55.



Penalty, 100*l*.

shall during the time that he shall continue in his office respectively, or within six months after he shall have quitted the same, be capable of giving his vote for the election of a member to serve in Parliament for the counties of *Middlesex* or *Surrey*, or for the city and liberty of *Westminster*, or the borough of *Southwark* respectively; nor shall by word, message, writing, or in any other manner endeavour to persuade any elector to give or dissuade any elector from giving his vote for the choice of any person to be a member to serve in Parliament for the said counties city or borough; and every such justice, receiver, surveyor, or constable offending therein shall forfeit the sum of one hundred pounds; one moiety thereof to the informer and the other moiety thereof to the use of the poor of the parish or place where such offence shall be committed; to be recovered by any person that shall sue for the same by action of debt, bill, plaint, or information, in any of his Majesty's Courts of Record at *Westminster*, in which no *essoign*, protection, privilege, wager of law, or more than one imparlance shall be allowed; such action to be brought within the space of one year after such offence committed: Provided nevertheless, that nothing in this Act shall extend to subject any such justice, receiver, surveyor, or constable, to any penalty for any Act done by him at or concerning any of the said elections in the discharge of his duty in the said respective capacities.

Acts directed to be done by a Justice where an Offence is committed, may be done by a Justice in the next Police Office.

His Majesty in Council may alter the situation of the Offices.

For the Regulation of Fairs.

Penalty on keeping open Houses, &c., within the Hours prohibited, 5*l*. for the Master, and on any Person refusing to quit, 40*s*.

XV. And be it further enacted, That where by any law now in being or hereafter to be made, any Act is directed or authorized to be done by any justice or justices of the peace residing in or near or next the parish or place where any offence or other matter cognizable before them shall be committed or shall arise, the same jurisdiction shall and may be exercised by a justice or justices acting in such of the said police offices as may be situated next or near such parish or place.

XVI. And be it further enacted, That it shall be lawful for his Majesty, his heirs and successors, by and with the advice of his or their privy council, to make such alterations in the places where any of the said police offices shall be situated or to make such alterations in the hours of attendance therein, and to make all such other regulations to be observed in conducting the same as he or they from time to time shall think proper.

XVII. And whereas divers fairs are held within the city and vicinity of *London*, by charter or prescription, and other fairs without any lawful authority, which lead to scenes of riot, disorder, debauchery, and crime, and it is expedient to regulate such fairs as are legally held, and to suppress such as have no lawful origin; be it therefore enacted, That all fairs held within ten miles of *Temple Bar*, all business and amusements of all kinds shall cease at the hour of eleven in the evening, and not recommence earlier than the hour of six in the morning; and that if any house, shop, room, booth, standing, tent, caravan, waggon, or other place shall during the continuance of any such fair as aforesaid, be open within the hours herein-before prohibited for any purpose of business or amusement in the place where such fair shall be held, or within three hundred yards thereof, then it shall be lawful for any constable or other peace officer within his jurisdiction to take into custody the master or mistress or other person having the care government or management of any such house, shop, room, booth, standing, tent, caravan, waggon, or other place, and also every person being therein and who shall not quit the same forthwith upon being bidden by any such constable or other peace officer so to do, and to convey every such person so taken, as soon as conveniently may be, before a justice of the peace, who shall proceed to hear the complaint in a summary way; and every person convicted before any such justice, as the master mistress or person having the care, government, or management of any such house, shop, room, booth, standing, tent, caravan, waggon, or other place, shall forfeit and pay the sum of five pounds; and every person so convicted as having been therein and not quitted the same forthwith upon being bidden by a constable or other peace officer so to do, shall forfeit and pay the sum of forty shillings, and if the party so convicted shall not immediately pay the penalty, the jus-

tice shall commit him or her to hard labour in the house of correction for any space of time not exceeding three months, nor less than six days, unless the penalty shall be sooner paid; and if there shall appear to any two justices, within their respective jurisdictions, reason to believe that any fair usually held within the distance aforesaid, has been held without charter prescription or other lawful authority, or that any fair lawfully held within the said distance has been usually held for a longer period than is warranted by charter prescription or other lawful authority, it shall be competent to them to summon the owner or occupier of the ground upon which such fair is usually held, to appear before such justices as may be present at some petty sessions to be held at the time and place to be specified in the summons, not less than eight days after the service of the summons, to show his right and title to hold such fair, or to hold such fair beyond a given period (as the case may be); and if such owner or occupier shall not attend in pursuance of such summons, or shall not show to the justices present at such petty sessions sufficient cause to believe that such fair has been held by lawful right and title for the whole period during which the same has been usually held, such justices shall declare in writing such fair to be unlawful, either altogether or beyond a stated period (as the case may be), and shall give notice of such their declaration by affixing copies thereof on the parish church, and on the most public places in and near the ground where such fair has been usually held; and if after such notices shall have been affixed for the space of six days, any attempt shall be made to hold such fair, if it shall be declared altogether unlawful, or to hold it beyond the prescribed period, if it shall be declared unlawful beyond a certain period, any justice of the peace within his jurisdiction may, by his warrant, direct any constable or other peace officer to remove every booth standing and tent and every carriage of whatsoever kind conveyed to or being upon such ground for the purpose of holding or continuing such fair, and to take into custody every person erecting pitching or fixing, or assisting to erect pitch or fix any such booth standing or tent, and every person driving accompanying or conveyed in every such carriage, and every person resorting to such ground with any exhibitions, shows, swings, roundabouts, whirligigs, or other instruments of gambling or amusement, and to carry every person so taken before the justice granting such warrant, or before some other justice, who shall proceed to hear the complaint in a summary way; and every person convicted before any such justice of any of the offences last aforesaid, shall forfeit and pay any sum not exceeding ten pounds, nor less than twenty shillings; and if the party so convicted shall not immediately pay the penalty, the justice shall commit him or her to hard labour in the house of correction for any space of time not exceeding three months, nor less than six days, unless the penalty shall be sooner paid: Provided nevertheless, that if the owner or occupier of the ground whereon any such fair has been usually held, shall, when summoned before the justices at their petty sessions as aforesaid, enter into a recognizance in the penal sum of two hundred pounds (which recognizance such justices are hereby authorized to take) with condition to appear in the Court of King's Bench on the first day of the then next term, and to answer to any information in the nature of a *Quo Warranto*, which his Majesty's attorney or solicitor-general may exhibit against such owner or occupier touching the right and title to such fair, and to abide the judgment of the court thereon, and to pay such costs as may be awarded by the court, which costs the said court is hereby authorized to award, then notwithstanding the justices shall declare such fair to be unlawful, they shall forbear from giving notice of such their declaration, and from taking any further measures thereon until judgment shall be given by the said court against the right and title to such fair; and the justices taking such recognizance shall forthwith transmit the same to one of his Majesty's principal secretaries of state, to the end that the same may be filed in the said court, and such further directions may be given thereon as to such secretary of state may seem fit and necessary.

No. XXX.
3 Geo. IV.
c. 55.

Fairs held without lawful Authority to be inquired into.

If declared unlawful, Booths, &c., to be removed.

Penalty not exceeding 10l. nor less than 20s.

On entering into Recognizance, Question as to Right of Title to Fair may be tried in the King's Bench.

No. XXX.
3 Geo. IV.
c. 55.

Regulations as
to Coffee Shops.

XVIII. And whereas it hath become a practice of late to open shops or rooms for the sale or under the pretence of selling ready-made coffee tea and other liquors, and to keep such shops or rooms open during the whole or the greatest part of the night, thereby affording shelter and accommodation to thieves prostitutes and other disorderly persons, and tending greatly to the encouragement of robberies and to the concealment of stolen property; be it further enacted, That no shop room or place for the purpose aforesaid, within the city of *London* or the liberties thereof, within the limits of the weekly bills of mortality, or within any of the parishes herein-before mentioned, shall be kept open after the hour of eleven at night during any part of the year, nor opened before the hour of four in the morning between *Lady Day* and *Michaelmas*, or before six in the morning between *Michaelmas* and *Lady Day*; and if any such shop room or place shall be open within the hours herein-before prohibited, or being shut up, if any person shall during those hours be found therein, except the persons actually dwelling there or having lawful excuse for being there, then the master, mistress, waiter, or other person having the care government or management of such shop room or place, whether he or she be the real owner or keeper thereof or not, shall forfeit and pay any sum not exceeding ten pounds, nor less than twenty shillings, upon conviction of any such offence before any justice of the peace by confession or upon the oath of one or more credible witness or witnesses; and if the party so convicted shall not immediately pay the said penalty, the justice shall commit him or her to hard labour in the house of correction for any space of time not exceeding three months, nor less than six days, unless the said penalty shall be sooner paid; and the said penalty, when paid, shall be distributed, one moiety to the informer and the other moiety to the chamberlain of the city of *London*, if the offence be committed in the said city, and if out of the said city, then to the said receiver for the purposes of this Act: Provided always, that nothing herein contained shall apply to or affect any house duly licensed for the sale of wines and spirituous liquors; and that no such conviction shall exempt the owner keeper or manager of any such shop room or place from any penalty or penal consequence whereto he or she may be liable for keeping a disorderly house.

Penalty not exceeding 10*l*. nor less than 20*s*.

Application of
Penalty.

Not to affect
Houses for the
Sale of Wines
and Spirits.

Prohibiting the
blowing of
Horns.

Penalty not exceeding 40*s*. nor less than 10*s*.

XIX. And be it further enacted, That if any person shall within the city of *London* and liberties thereof, or within the limits and parishes aforesaid, blow any horn or use any other noisy instrument for the purpose of hawking selling or distributing any article whatsoever, it shall be lawful for any constable, headborough, patrol, watchman, or other person to apprehend every person so offending and convey him before any justice of the peace, who shall proceed to examine upon oath any witnesses appearing to give evidence touching such offence; and if the party accused shall be convicted of such offence, then and in every such case he shall for every such offence forfeit and pay any sum not exceeding forty shillings, nor less than ten shillings, to be applied in such manner as such justice shall direct; and in case the offender shall not upon conviction forthwith pay the penalty, such justice is hereby required to commit such offender to the house of correction, there to be kept to hard labour for any time not exceeding ten days, nor less than three days, unless the penalty shall be sooner paid.

Form of Conviction.

XX. And be it further enacted, That every conviction for the offences aforesaid shall be in the following form of words, or in some other form of words to the like effect:

‘**B**E it remembered, That on the _____ day of _____ in the year of our Lord _____ *A. B.* is brought before me [or, having been duly summoned has neglected to appear before me] *C. D.* Esquire, one of his Majesty’s justices of the peace in _____ and for the county of _____ [or city or liberty or place, as the case may be] and is charged before me the said justice with having [here describe the offence] and it appearing to me the said justice upon the confession of him the said *A. B.* [or, upon the oath of a credible witness, as the case may be] that the said *A. B.* is guilty of

' the said offence; I do therefore adjudge the said *A. B.* to forfeit and pay
' the sum of _____; and in default of pay-
' ment to be imprisoned in the house of correction at
' _____ and there kept to hard labour for the term of _____
' unless the said penalty shall be sooner paid; and I do
' hereby direct that the said penalty shall, when paid, be applied to [*here*
' *direct the mode*]. Given under my hand and seal the day and year first
' above written.

XXI. And whereas ill-disposed and suspected persons and reputed thieves frequent the parks, fields, streets, highways, and places adjacent, and divers places of public resort, and the avenues leading thereto, within the city of *London* and the liberties thereof, the limits of the weekly bills of mortality, and the said parishes of *Saint Mary-le-bone Paddington Saint Pancras Kensington and Saint Luke Chelsea*, and also the said river *Thames*, and the docks and creeks quays and warehouses adjacent thereto, and the streets highways and avenues leading to the said river, docks, creeks, quays, and warehouses, with intent to commit felony on the persons or property of his Majesty's subjects; and although their evil purposes are sufficiently manifest, the power of his Majesty's justices of the peace to demand of them sureties for their good behaviour hath not been of sufficient effect to prevent them from carrying their evil purposes into execution; be it further enacted, That it shall be lawful for any constable, headborough, patrol, watchman, or other person to apprehend every such suspected person or reputed thief, and convey him or her before any justice of the peace; and if it shall appear before the said justice upon the oath of one or more credible witness or witnesses that such person is a person of evil fame and a reputed thief, and such person shall not be able to give a satisfactory account of himself or herself, and of his or her way of living, and it shall also appear to the satisfaction of the said justice that there is just ground to believe that such person was in or on such park, field, street, highway, river, dock, creek, quay, warehouse, avenue, or other place as aforesaid, with such intent as aforesaid, every such person shall be deemed a rogue and vagabond within the intent and meaning of an Act made in the present session for consolidating and amending the laws relating to rogues vagabonds and other idle and disorderly persons.

XXII. And be it further enacted, That every such conviction shall be in the following form of words, or in some other form of words to the like effect:

' **BE** it remembered, That on the _____ day of _____ in
' the year of our Lord _____ *A. B.* is brought
' before me *C. D. Esquire*, one of his Majesty's justices of the peace in
' and for the county of _____ [*or city liberty or place, as the*
' *case may be*] and charged before me the said justice with being a rogue
' and vagabond, he the said *A. B.* having been apprehended on the
' _____ day of _____ in a certain _____ called
' _____ in the parish of _____ in the said county [*or city, et cetera*
' *as the case may be*]; and it appearing to me the said justice on the oath
' of _____ a credible witness, that the said *A. B.* is a
' person of evil fame and a reputed thief, and the said *A. B.* on his ex-
' amination before me not being able to give a satisfactory account of
' himself, or of his way of living, and it also appearing to the satisfac-
' tion of me the said justice that there is just ground to believe that the
' said *A. B.* was in such _____ as aforesaid with intent to commit
' felony on the person or property of his Majesty's subjects there being;
' I do therefore in pursuance of an Act passed in the third year of the
' reign of King *George the Fourth*, intituled [*here insert the title of this*
' *Act*] convict him the said *A. B.* of the said offence and adjudge him to
' be a rogue and vagabond within the intent and meaning of the statute
' made in the same year, intituled "An Act for consolidating into One
' Act, and amending the Laws relating to idle and disorderly Persons,
' Rogues and Vagabonds, incorrigible Rogues, and other Vagrants, in
' *England*;" and that he for his said offence be committed to the house

No. XXX.

3 Geo. IV.

c. 55.

Constables may
apprehend sus-
pected Persons.

Form of Con-
viction.

No. XXX.
3 Geo. IV.
c. 55.

Conviction not
to be quashed
for want of
Form, or re-
movable by
Certiorari.

Appeal to Quar-
ter Sessions,
&c.

Penalty for
Bullock-hunt-
ing increased,
21 G. 3. c. 67.

Officers and
Patrols of Bow-
street Office to
act as Constables.

‘ of correction at until the next general [or quarter, as the
‘ case may be] sessions of the peace to be holden for the said county [city
‘ or place, as the case may be] then and there to be further dealt with ac-
‘ cording to law. [If the party be committed for a less time than until the
‘ sessions, then say, there to remain for the space of
‘ Given under my hand and seal the day and year first above written.’

XXIII. And be it further enacted, That no conviction under this Act, for any of the offences aforesaid, shall be quashed or set aside or adjudged void or insufficient for want of form; nor shall the same be removed by certiorari into his Majesty's Court of King's Bench; but that in all cases where the penalty shall exceed the sum of five pounds or one month's imprisonment, if any person shall think himself aggrieved by such conviction, such person may appeal to the justices of the peace at the next general or quarter sessions of the peace to be held for the county or city wherein the cause of complaint shall have arisen, such person at the time of his conviction entering into a recognizance with two sufficient sureties, conditioned personally to appear at the said sessions to try such appeal, and to abide the further judgment of the justices at such sessions assembled; and in case any such conviction of a reputed thief shall be affirmed at such sessions, the said justices may adjudge the offender to be a rogue and vagabond, and proceed against him or her in the same manner as they might have done if such rogue and vagabond had been committed to the house of correction until such general or quarter sessions; and in case such offender shall not appear pursuant to the said recognizance, the person so convicted by such justice shall be deemed an incorrigible rogue within the intent and meaning of the said last-recited Act; and the justices at such sessions, or any two of them, shall issue their warrant to apprehend and commit the person so deemed an incorrigible rogue to some house of correction or common gaol within their jurisdiction, there to remain until the next general or quarter sessions for the said county city or liberty, as the case may be, then and there to be further dealt with according to law.

XXIV. And whereas by an Act passed in the twenty-first year of his late Majesty's reign, intituled ‘ An Act to prevent the Mischiefs that arise from driving Cattle within the Cities of London and Westminster, and Liberties thereof, and Bills of Mortality, a penalty not exceeding twenty shillings nor less than five shillings is imposed on every person not being hired or employed to drive cattle, who pelts with stones or brickbats or by any other means drives or hunts away or sets any dog or dogs at any ox, heifer, cow, steer, or other cattle without the consent of the owner of the same or his servant: And whereas the said penalty has been found insufficient to deter evil-disposed persons from the practice of hunting bullocks; be it therefore further enacted, That if any person shall pelt drive or hunt, or set any dog or dogs at any ox, heifer, cow, or steer, contrary to the provisions of the said last-recited Act, such person shall upon being convicted thereof according to the same Act, forfeit and pay on the first conviction any sum not exceeding forty shillings nor less than twenty shillings, and on the second and every future conviction any sum not exceeding five pounds nor less than fifty shillings to the person or persons who shall prosecute such offender to conviction, and in default of payment shall be committed to the house of correction, there to be kept to hard labour for any time not exceeding two months on the first conviction, nor five months on the second and every future conviction, in the manner prescribed by the said last-recited Act.

XXV. And whereas it is expedient that the officers of the said public office in Bow-street, and the horse and foot patrol acting under the orders of the chief magistrate of that office shall be sworn in as constables, and be empowered to act within the said several counties of *Middlesex, Surrey, Essex and Kent*; be it therefore further enacted, That it shall and may be lawful for the said chief magistrate to administer to such persons respectively an oath duly to execute the office of constable within the counties aforesaid; and each of such persons being sworn shall have power to act as a constable for the preservation of the peace and for the security of

property against felonious and other unlawful modes of obtaining the same within any and every of the said several counties, and for apprehending offenders against the peace as well by night as by day; and shall have all such powers and authorities privileges and advantages as any constable duly appointed now has or hereafter may have within his constablewick: Provided always, that when any such constable shall be dismissed from his said employment or cease to belong to the said police office in *Bow-street*, all powers and authorities, allowances, emoluments, privileges, and advantages, vested in the persons so dismissed or ceasing to belong to the said office, shall immediately cease and determine.

XXVI. And be it further enacted, for the purpose of insuring competency and fidelity in the watchmen and patrols employed by the aldermen and common council of the city of *London*, and the vestries and other parochial and local authorities within the limits of the weekly bills of mortality and the parishes herein-before mentioned, when any case of incompetency, negligence, misconduct, or delinquency shall appear to any two justices of the peace acting within the said city or limits and parishes, against any such watchman or patrol, it shall be lawful for the said two justices by writing under their hands and seals to declare the same, and to pronounce the man so found incompetent or guilty of such negligence misconduct or delinquency to be either suspended for a limited time or absolutely dismissed from his office, as they shall think proper, and to give notice of such suspension or dismissal to the alderman and common council of the ward, if in the city of *London*, or to the vestry or other authority by whom such watchman or patrol was appointed, if elsewhere; and every such watchman or patrol shall be incapable of being re-appointed, either for the same or any other ward parish or place, while such suspension or dismissal shall remain in force; and if no watchman or patrol shall be appointed by the alderman and common council of the ward, or by the vestry or other proper authority at their next meeting after such notice shall be delivered to the deputy of the ward or to the clerk or secretary of such vestry, or other proper authority, or left at the house or office where their business is usually transacted, the said justices shall appoint a successor who shall exercise and enjoy the said duties and powers, and receive the same pay emolument and allowances, as if regularly appointed.

XXVII. And be it further enacted, That no man shall hereafter be appointed within the limits and parishes aforesaid, by any authority whatsoever, to be a watchman or patrol who shall be above the age of forty years, unless he shall have been previously and up to the time of such appointment employed in the said horse or foot patrol.

XXVIII. And be it further enacted, That it shall be lawful for the aldermen and common council of the respective wards in the city of *London* and liberties thereof, to make such allowance to superannuated watchmen beadles or patrols as they shall think proper, to be paid out of the watch rate to be raised in such wards respectively.

XXIX. And be it further enacted, That for the better administration of the police within the limits and parishes aforesaid, it shall be lawful for the constable or headborough attending at any watchhouse within those limits and parishes between the hours of eight in the afternoon and six in the forenoon to take bail by recognizance, without any fee or reward from any person who shall be brought into his custody within the said hours without the warrant of a justice, charged with any petty misdemeanor, if such constable shall deem it prudent to take such bail for the appearance of such person before the justices at the said public office in *Bow street*, or at one of the said police offices to be specified in the recognizance, for examination at the hour of ten in the forenoon next after such recognizance shall be taken, unless that hour shall fall on a *Sunday*, or on one of the days of absence allowed by this Act, and in that case at the like hour on the succeeding day; and that every recognizance so to be taken shall be of equal obligation on the parties entering into the same, and liable to the same proceedings for the estreating thereof as if the same had been taken before one of his Majesty's justices of the

No. XXX.
3 Geo. IV.
c. 55.

For Regulation
of Parish-
Watchmen, &c.

No Watchman
or Patrol to be
appointed above
the Age of 40,
&c.

Allowance to
superannuated
Watchmen in
London.

Enabling Con-
stables at
Watchhouses
to take Bail at
Night.

No. XXX.
3 Geo. IV.
c. 55.

In Default of
Appearance Re-
cognizance to
be forfeited.

Time of Hear-
ing may be
postponed.

Penalty for
damaging, &c.,
Boats belonging
to Thames
Police.

Surveyors hav-
ing just Cause
to suspect Fel-
ony, may enter
on Vessels and
take up sus-
pected Persons.

Unlawful
Quantities of
Gunpowder
may be seized.

12 G. 3. c. 61.

peace; and the constable or headborough shall enter in a book to be kept for that purpose in every watchhouse the names residence and occupation of the party and his sureties entering into such recognizance, together with the condition thereof, and the sums respectively acknowledged, and shall lay the same before such justice as shall be present at the time and place when and where the party is required to appear; and if the party does not appear at the time and place required or within one hour after, the justice shall cause a record of the recognizance to be drawn up to be signed by the constable or headborough, and shall return the same to the next general or quarter sessions of the peace, with a certificate at the back thereof, signed by such justice, that the party has not complied with the obligation therein contained, and the clerk of the peace shall make the like estreats and schedules of every such recognizance as of recognizances forfeited in the sessions of the peace; and if the party not appearing shall apply by any person on his behalf to postpone the hearing of the charge against him, and the justice shall think fit to consent thereto, the justice shall be at liberty to enlarge the recognizance to such further time as he shall appoint; and when the matter shall be heard and determined either by the dismissal of the complaint or by binding the party over to answer the matter thereof at the sessions, or otherwise, the recognizance for the party's appearance before the justices shall be discharged without fee or reward.

XXX. And be it further enacted, That if any person shall wilfully destroy or damage or endeavour to destroy or damage, or be wilfully concerned in destroying or damaging, or endeavouring to destroy or damage any boat belonging to or hired or employed by or by the authority of the justices appointed to attend at the *Thames* police office, or any part of the sails oars or other tackle, stores goods or furniture contained in or belonging to any such boat, every person so offending shall forfeit and pay for every boat so destroyed or damaged or attempted to be destroyed or damaged, or of which any of the tackle or other contents shall have been so destroyed or damaged or attempted to be destroyed or damaged, any sum not exceeding thirty pounds, or shall suffer imprisonment for any time not exceeding three months, over and above any such damages as may be recoverable by action at law against any such offender.

XXXI. And be it further enacted, That it shall be lawful for every such *Thames* police surveyor (subject to the orders of the said justices appointed to attend the *Thames* police office) having just cause to suspect that any felony has been or is about to be committed in or on board of any ship, hoy, barge, lighter, boat, or other vessel lying or being in the said river docks or creeks, to enter at all times, as well by night as by day, into and upon every such ship, hoy, barge, lighter, boat, or other vessel, and therein to take all necessary measures for the effectual prevention or detection of all felonies which he has just cause to suspect to have been or to be about to be committed in and upon the said river docks or creeks, and to apprehend and detain all persons suspected of being concerned in such felonies, and also all property so suspected to be stolen, and the same to produce before some justice, to be dealt with according to law.

XXXII. And be it further enacted, That it shall be lawful for every such *Thames* police surveyor, at any time between sun-rising and sun-setting, to enter any ship or vessel (except his Majesty's ships) in the said river docks and creeks, and to search the same for unlawful quantities of gunpowder, and also to exercise the same powers of seizing removing to proper places and detaining all such unlawful quantities of gunpowder found on board any such ship or vessel, and the barrels or other packages in which such gunpowder shall be, as are given to persons searching for unlawful quantities of gunpowder under a warrant of a justice, by virtue of an Act passed in the twelfth year of his late Majesty's reign, intituled 'An Act to regulate the making keeping and Carriage of Gunpowder within *Great Britain*, and to repeal the Laws heretofore made for any of those purposes.'

XXXIII. And be it further enacted, That it shall be lawful for any *Thames* police constable or surveyor, or any other peace officer within his jurisdiction, to stop search and detain in some place of safety, any boat craft or vessel which there shall be reason to suspect of having therein any of his Majesty's naval stores, or any ropes, cordage, tackle, apparel, furniture, stores, materials, or any part of any cargo or lading, or any lead, iron, copper, brass, bell metal, pewter, solder, or other article stolen or unlawfully procured; and also to apprehend search and detain any person who may be reasonably suspected of having or conveying any such articles in such boat craft or vessel, or on land, and to convey every such person so apprehended (as soon as conveniently may be) before some justice of the peace; and if such person shall not give an account to the satisfaction of such justice how he or she came by the same, then the person so apprehended shall be deemed and adjudged guilty of a misdemeanor, and shall suffer as herein-after mentioned; and such boat craft or vessel, with her tackle, apparel, furniture, and loading, shall upon such conviction, be forfeited and disposed of as is herein-after directed.

XXXIV. And be it further enacted, That if on information given on oath it shall appear to any justice that there is reasonable cause for suspecting that any such articles as aforesaid, after having been so stolen or unlawfully obtained, are concealed or otherwise lodged in any dwelling-house, warehouse, yard, garden, or any other place, it shall be lawful for such justice, by special warrant under his hand and seal, directed to any *Thames* police constable or surveyor as aforesaid, or other constable within his jurisdiction, to cause every such place to be searched at any time of the day, or by night, if power for that purpose be especially given in and by such warrant; and the said justice, if it shall appear to him necessary, may moreover empower such constable or surveyor, with any such assistance as to the said justice may appear, or by such constable or surveyor may be found necessary (such constable or surveyor having previously made known such his authority) to use force for the effecting of such entry, whether by breaking open doors or otherwise; and if upon search thereupon made any such suspected article shall be found, then to convey the same forthwith to and before a justice, or to guard the same on the spot while the offenders are taken before a justice, or otherwise dispose thereof in some place of safety, subject to the orders of a justice in manner above mentioned; and moreover to apprehend and convey before the said justice the person or persons in whose house lodging or other place the same shall so have been found, as also every other person found in such house lodging or place, who shall appear to have been privy to the depositing of such article in such place, knowing or having reasonable cause to suspect the same to have been stolen or otherwise unlawfully obtained; and if such persons respectively shall not immediately or within some reasonable time to be assigned by the justice, make it appear to the satisfaction of the justice by what lawful means such article or articles came to be deposited or situated in such place as aforesaid, without any default on the part of such persons respectively, then and in such case the person or persons in whose house lodging or other place any such suspected article was found, and also every other person so appearing to have been privy to the depositing thereof, knowing or having cause to suspect the same to have been stolen, or otherwise unlawfully obtained, shall be deemed and adjudged guilty of a misdemeanor, and shall suffer as herein-after mentioned.

XXXV. Provided always, and be it further enacted, That if any person, on being so produced before any justice to give an account of any articles seized and detained, in any of the cases aforesaid, shall declare himself or herself to have bought received or otherwise obtained such articles of some other person, such justice is hereby authorized and required to examine every such other person; and also every other prior purchaser or pretended purchaser; and if upon the whole evidence it shall appear to such justice, that the party suspected, or the party upon whom such articles were found, or the person so produced, or such prior

No. XXX.
3 Geo. IV.
c. 55.

Where Boats are suspected to have any Naval Stores, stolen Ropes, &c., on board, they may be detained, and the Persons suspected of having conveyed the stolen Articles on board may be taken before a Justice, &c.

On Information that there is reasonable Cause for suspecting that any of the Cargo of any Vessel, or any of his Majesty's Stores, &c., have been unlawfully obtained, and are concealed, how to proceed.

Party from whom Goods bought to be examined by the Justice.

If Goods are found to be lawfully

No. XXX.
3 Geo. IV.
c. 55.

Masters of Vessels between Westminster Bridge and Blackwall having on board Guns loaded with Ball, or discharging Guns before Sun-rising or after Sun-setting, or heating Tar or other combustible Matter on board of Vessels, shall forfeit not exceeding 5*l*.

Appeal to Quarter Sessions.

Framing a false Bill of Parcels to escape Detection deemed a Misdemeanor.

purchaser or pretended purchaser, or any of them, at the time of his or her receiving such articles into his or her possession, did believe or had reasonable cause to believe that such articles, or any part thereof, were at any time and by any person unlawfully come by or obtained, it shall be lawful for such justice to adjudge such party to be guilty of a misdemeanor, and the party so convicted shall thereupon suffer as herein-after mentioned.

XXXVI. And for the more effectual prevention of accidents by fire and other mischiefs upon the said river, be it further enacted, That if any master or commander or other officer of any ship or vessel (except his Majesty's ships,) shall, while such ship or vessel shall lie or be in the said river between *Westminster Bridge* and *Blackwall*, keep any gun on board such ship or vessel shot or loaded with ball, or cause or permit to be fired or discharged any gun on board such ship or vessel, before sun-rising or after sun-setting, such master commander or other officer shall, for every such gun so kept shot or loaded, forfeit the sum of five shillings; and for every gun so fired or discharged, the sum of ten shillings, and if any master commander or other officer of any such ship or vessel, or any other person on board of the same, or any person on board of any barge, lighter, boat, or other craft or vessel, shall, while such ship, barge, lighter, boat, craft, or vessel shall lie or be in the said river between *Westminster Bridge* and *Blackwall*, heat or melt, or cause or permit to be heated or melted by fire loggerheat shot or any other means, on board any ship, barge, lighter, boat, craft, or vessel whatever, any pitch, tar, rosin, grease, tallow, oil, or other combustible matter, every person so offending shall for every such offence forfeit any sum not exceeding five pounds; and any one of the justices appointed to attend at the *Thames* police office, or any other justice within his jurisdiction, is hereby authorized and required, upon any information exhibited or complaint made in that behalf, within ten days next after any such offence shall have been committed, to summon the party accused, and also the witnesses on either side, or after the oath made of the commission of any of the facts above mentioned by one or more credible witness or witnesses, to issue a warrant to apprehend the party accused, and upon the party's appearance or contempt in not appearing (upon the proof of notice given), such justice shall proceed to the examination of the witness or witnesses on oath, and upon due proof thereof, either by the voluntary confession of the party, or by the oath of one or more credible witness or witnesses, to give judgment or sentence; and in case the party accused shall be convicted of such offence, it shall and may be lawful for such justice to commit such offender to prison, there to remain for any time not exceeding the space of two months, unless the penalty shall be sooner paid; and if any person shall find himself aggrieved by the judgment of any such justice, he may appeal to the next court of general quarter sessions for the county or city where such offence shall have been committed, on giving immediate notice of such appeal, and finding sufficient security, to the satisfaction of such justice, for prosecuting such appeal with effect, and for abiding the determination of the court therein; and the said court are hereby empowered to summon and examine witnesses upon oath, and finally to hear and determine the matter, and in case the judgment shall be affirmed, to award the person appealing to pay such costs occasioned by such appeal as shall seem meet; and one moiety of all money recovered on account of every such penalty shall be distributed, at the discretion of the justice making the conviction, to such person or persons as he shall judge to have been instrumental in detecting and prosecuting the offender.

XXXVII. And be it further enacted, That every person who for the purpose of protecting or preventing any goods, wares, merchandize, or other articles whatsoever from being seized, on suspicion of their being stolen or otherwise unlawfully obtained, or of preventing the same from being produced or made to serve as evidence of or concerning any felony or misdemeanor, shall frame or cause to be framed, or be anywise concerned in framing or causing to be framed any bill of parcels containing any false

statement in regard to the name or abode of any alleged vendor, the quantity or quality of any goods, the place from whence or the conveyance by which the same were furnished, the price agreed upon or charged for the same, or any other particular, knowing such statement to be false, or who shall fraudulently produce such bill of parcels knowing the same to have been fraudulently framed, shall be adjudged guilty of a misdemeanor, and shall suffer as herein-after mentioned; and may, moreover, at the discretion of any justice in whose jurisdiction such offence shall be committed, be published and advertised as a fabricator of false bills of parcels, or as a convicted or reputed receiver of goods stolen or otherwise unlawfully obtained, as the case may be.

XXXVIII. And whereas, for the purpose of increasing the facility of depredation it hath been a common practice among persons concerned in the landing and warehousing of merchandise from on board ships and vessels in the said river, wilfully to injure and promote the opening and breaking of casks bags and other packages, and the spilling of their contents; for remedy thereof, be it further enacted, That if any person employed in the loading landing or warehousing of any goods, or any other person, shall wilfully or through culpable negligence or carelessness, cause or suffer, or be concerned in causing or suffering to be broken, bruised, pierced, started, cut, torn, or otherwise injured, any cask, box, chest, bag, or other package, containing or being designed and prepared for containing any goods while on board of any barge lighter or other craft lying or being in the said river, or any dock, creek, quay, wharf or landing-place adjacent to the same, or in or in the way to or from any warehouse to or from which such package shall have been removed, shall be removing, or about to be removed, with intent that the contents of such package or any part thereof may be spilled or dropped from such package, every person so offending shall for every such offence be deemed and adjudged guilty of misdemeanor, and shall suffer as herein-after mentioned.

XXXIX. And be it further enacted, That if for the purpose of preventing the seizure or discovery of any materials, furniture, stores, or merchandise belonging to or having been part of the cargo of any ship or vessel lying in the said river or the docks or creeks adjacent thereto, or of any other articles unlawfully obtained from any such ship or vessel, any such or any other article shall be wilfully let fall or thrown into the river, or in any other manner directly or purposely conveyed away or endeavoured to be conveyed away from any ship, boat, barge, lighter, craft, wharf, quay, or other landing-place, every person being party privy or accessory to such letting-fall throwing or conveyance, or to any previous instructions or premeditated design so to let fall throw or convey away any such article with any such purpose as aforesaid, shall be deemed and adjudged guilty of a misdemeanor; and every *Thames* police surveyor, or constable or other peace officer within his jurisdiction, shall apprehend and detain every such person, and forthwith convey him or her before some justice, and shall also seize and detain any boat in which such person shall be found, or out of which any such article shall be so let fall thrown or conveyed away; and upon the conviction of such person, such boat, with her tackle, apparel, furniture, and loading shall be forfeited and disposed of as is herein-after directed.

XL. And be it further enacted, That for every offence herein-before declared to be a misdemeanor, or for which no special penalty is herein-before appointed, the offender shall, at the discretion of the justice before whom the conviction shall take place, either forfeit and pay any sum not exceeding five pounds, or suffer imprisonment for any time not exceeding two months, in any gaol or house of correction within the jurisdiction of such justice; and in case of the adjudication of a pecuniary penalty and non-payment thereof, it shall be lawful for such justice to commit the offender to any gaol or house of correction for the like term unless such penalty shall be sooner paid; and one moiety of every such pecuniary penalty shall be paid to such receiver as aforesaid for the purposes of this Act, and the other moiety thereof under the direction of the justice by whom the same shall have been adjudged, shall either be paid and

No. XXX.
3 Geo. IV.
c. 55.

Penalty for
breaking, &c.,
Packages, with
an Intent that
the Contents
may be spilled.

Wilfully letting
fall Articles into
the Thames, or
into a boat, &c.
with fraudulent
Intention, how
to be punished.

For Offences
declared Mis-
demeanors, and
for which no
Penalty is ap-
pointed, Of-
fenders shall
forfeit not ex-
ceeding 5*l.* or
be imprisoned.

No. XXX.
3 Geo. IV.
c. 55.

Articles seized
to be advertised
if Person con-
victed.

2 G. 3. c. 28.

Offences how to
be tried.

Misdemeanors
under recited
Act 2 G. 3.
c. 28. to be
punished at the
Discretion of
the Justices.

Forfeited Boats,
instead of being
burnt, may be
restored or
sold.

applied to the use of the informer alone, or be distributed between such persons as shall have contributed to the conviction of the offender in such shares and proportions as such justice shall think fit; and that when any articles shall be seized by virtue of this Act, and the person in whose possession the same shall have been found shall be convicted of a misdemeanor as aforesaid, it shall be lawful for the justice before whom the conviction shall take place, to cause such articles to be advertised in some public newspaper, to the end that persons having a right thereto may claim and receive the same within thirty days from the date of such advertisement in the manner and upon the conditions directed in and by an Act of the second year of his late Majesty's reign, intituled 'An Act to prevent the committing of Thefts and Frauds by persons navigating Bum-boats and other Boats upon the River *Thames*;' and if no person shall prove his property and right to the said articles within the said thirty days, the same shall be sold for the best price that can reasonably be gotten for the same; and after deducting the charges according to the said recited Act, the residue of the produce thereof shall be paid to the said receiver for the purposes of this Act.

XLII. And be it further enacted, That in every case in which complaint shall be made of any offence by this Act, declared to be a misdemeanor, or for which any pecuniary penalty is herein-before appointed, with or without imprisonment, in addition thereto or in lieu thereof, the matter of such complaint, if the offence shall have been committed or the offender apprehended within the jurisdiction of the city of *London*, may be heard and determined by the lord mayor recorder or one of the aldermen of the said city, and not elsewhere; but if the offence shall have been committed or the offender apprehended out of the said jurisdiction, such complaint may be heard and determined either by one of the justices appointed to the *Thames* police office as aforesaid, or by any other justice within whose jurisdiction the offence shall have been committed or the offender apprehended; and every conviction thereupon had shall be certified filed and entered in such manner as is directed in and by the said Act of the second year of his late Majesty's reign, with respect to convictions under that Act, and may also be drawn up in such form and manner, *mutatis mutandis*, as is appointed in and by the same Act; and neither such conviction nor any proceeding previous thereto shall be removed by *certiorari* or otherwise, into any Court of Record, but such conviction shall be final and conclusive to all intents and purposes whatsoever.

XLIII. And whereas the punishments for misdemeanors provided in and by the said Act of the second year of his late Majesty's reign, have been found insufficient for the preventing of such offences; be it enacted, That every person who shall be guilty of any of the offences respectively made and declared to be misdemeanors in and by the said Act, may be punished at the discretion of the justice or justices by or before whom the offender shall be convicted, either with the punishment appointed in and by the said Act or by such other punishment as is hereby appointed for and in cases of offences declared to be misdemeanors in and by this present Act; and that all the powers and provisions of the said last recited Act respecting the obstruction of its execution and the commencement and prosecution of actions against justices, and their officers acting thereunder, shall extend to all things done and to all persons acting under this Act, as fully as if the same powers and provisions were herein repeated and re-enacted.

XLIII. And be it further enacted, That in all cases in which it is directed by the said last recited Act, that any boat with her tackle and appurtenances which shall be forfeited shall be burnt and destroyed, it shall be lawful for any justice before whom any person shall have been convicted of any offence, whereby any boat is or should be adjudged to be forfeited under that Act, and also for any justice by whom any boat shall be adjudged to be forfeited under this Act, to direct such boat with her tackle and appurtenances either to be burnt and destroyed or to be restored to the owners thereof, or to be publicly sold, and the produce

of such sale to be applied in like manner as other forfeitures under this Act.

XLIV. And whereas disputes frequently arise between bargemen, lightermen, watermen, ballastmen, coal-whippers, coal-porters, sailors, lumpers, riggers, shipwrights, caulkers, and other labourers, who work for hire in or upon the said river, and the docks, creeks, wharfs, quays, and places adjacent, respecting wages or money due to them for work, and the owners masters or commanders of vessels and their agents and the owners wharfingers or occupiers of such wharfs or quays and their agents and other persons employing such labourers; be it further enacted, That all differences complaints and disputes which shall happen and arise between any bargemen, lightermen, watermen, ballastmen (except Trinity ballastmen), coal-whippers, coal-porters, sailors, lumpers, riggers, shipwrights, caulkers, or other labourers, who work for hire in or upon the said river or the docks, creeks, wharfs, quays, or places adjacent, and the owners masters or commanders of vessels or their agents on the said river, or the docks or creeks thereunto adjoining, or the owners wharfingers or occupiers of such wharfs or quays, or their agents or other employers, respecting wages or money due to such labourers for work, whether the same persons be employed for any certain time, or in any other manner, shall be heard and determined by the justices appointed to the *Thames* police office, or any one of them, or any other justice within his jurisdiction; and every such justice is hereby empowered to summon before him any such master or commander of any vessel or any such owner thereof or his agent, or the owner wharfinger or occupier of any wharf or quay or their respective agents, or any other employer; and if any such master, commander, owner, wharfinger, occupier, agent, or employer, shall refuse or neglect to attend such summons, then every such justice is hereby empowered to issue his warrant to bring such person summoned before him to answer such complaint, and to examine upon oath any such bargemen, lightermen, waterman, ballastman (other than any Trinity ballastman), coal-whipper, coal-porter, sailor, lumper, rigger, shipwright, caulker, or other labourer, or any other witness or witnesses touching any such complaint or dispute, and to make such order for payment of so much wages to such bargemen, lighterman, waterman, ballastman (other than any Trinity ballastman), coal-whipper, coal-porter, sailor, lumper, rigger, shipwright, caulker, or other labourer, as to such justice shall seem just and reasonable, provided that the sum ordered do not exceed five pounds, besides all reasonable costs attending the prosecution of the complaint, which costs the justice is empowered to order; and in case of refusal to pay or non-payment of any sum so ordered by the space of twenty-four hours next after such determination, such justice may issue forth his warrant to levy the same by distress and sale of the goods and chattels of the person ordered to pay the same, together with the charges of such distress and sale; and if no sufficient distress shall be found, such justice shall commit the person ordered to make such payment to prison for any time not exceeding one month, unless the sum so ordered shall be sooner paid; and every such order shall be final and conclusive to all intents and purposes, and shall not be removable by *certiorari* or otherwise into any court whatsoever.

XLV. Provided always, and be it further enacted, That nothing herein contained shall extend to authorize or empower any justice, except the lord mayor aldermen and recorder of the city of *London*, for the time being, or some or one of them, to hear and determine any such differences complaints or disputes as shall or may arise for or in respect of any employment or work done within the said city of *London* or the suburbs and liberties thereof, or on board of any ship, hoy, barge, lighter, boat, or other vessel, lying or being on the north side of the river, between the Tower of *London* and the western extremity of the *Temple*, adjoining *Essex-street* in the county of *Middlesex*.

XLVI. Provided always, and be it further enacted, That nothing in this Act shall extend to deprive the lord mayor and commonalty and citizens of the city of *London* of any right privilege or jurisdiction hereto-

No. XXX.

3 Geo. IV.

c. 55.

Disputes about Wages for Labour done on the River, &c., (except by Trinity Ballastmen) to be settled by Justices, provided the Sum in question does not exceed 5*l*.

Jurisdiction, for determining Disputes about Wages for Labour done on the *Thames*, &c.

Not to affect the Rights of the city of *London*, &

No. XXXI.
4 Geo. IV.
c. 27.

fore lawfully claimed exercised or enjoyed within the town and borough of *Southwark* or the liberties thereof, or to prevent the said lord mayor for the time being, or such of the aldermen of the said city as have borne the office of mayoralty, or the recorder of the said city for the time being from acting as justices of the peace within the said town and borough of *Southwark* and the liberties thereof, in such and the like manner as they could or might have done in case this Act had not been made; nor to deprive the lord mayor and commonalty and citizens of the said city of any right, privilege, immunity, or jurisdiction which they have heretofore lawfully claimed exercised or enjoyed upon the said river, or the lord mayor of the said city for the time being as conservator of the said river: nor to prevent the said lord mayor and the said aldermen and recorder of the said city from acting as justices of the peace upon the said river or taking cognizance of offences committed upon or within the limits of the same, in such manner as they might or would have done in case this Act had not been made.

Nor the Dean
or High Stew-
ard of West-
minster.

XLVII. Provided also, and be it further enacted, That nothing in this Act shall extend to deprive the dean and chapter of the collegiate church of *Saint Peter, Westminster*, or the high steward or high bailiff of the city and liberty of *Westminster* for the time being, or their respective lawful deputies, of any rights privileges or jurisdictions which they have heretofore lawfully claimed exercised or enjoyed within the said city and liberty, in such and the like manner as they could or might have done in case this Act had not been made.

Not to affect
the Rights of
the Trinity
House, &c.

XLVIII. Provided also, and be it further enacted, That nothing in this Act contained shall extend to prejudice or derogate from any of the rights privileges or authorities of the master wardens and assistants of the guild fraternity or brotherhood of the most glorious and undivided Trinity and of *Saint Clement* in the parish of *Deptford Strond* in the county of *Kent*.

Commence-
ment and Con-
tinuance of Act.

XLIX. And be it further enacted, That this Act shall commence and have effect from the expiration of the said recited Act of the last session of Parliament, and shall continue and be in force for the term of seven years.

Public Act.

L. And be it further enacted, That this Act shall be deemed adjudged and taken to be a public Act; and shall be judicially taken notice of as such by all judges justices and other persons whomsoever, without the same being specially pleaded.

[No. XXXI.] 4 Geo. IV. c. 27.—An Act to amend an Act passed in the Seventh Year of the Reign of His late Majesty King *George* the Third, respecting Justices of the Quorum in Cities and Towns Corporate.—[23d May 1823.]

7 G. 3. c. 21.

WHEREAS an Act was passed in the seventh year of the reign of his late Majesty King *George* the Third, intituled *An Act to obviate the Inconveniencies that may arise with respect to the Execution of Acts of Parliament in such Cities, Boroughs, Towns Corporate, Franchises, or Liberties, as have only One Justice of the Peace of the Quorum qualified to act within the same*; whereby it was enacted, that in all such cities, boroughs, towns corporate, franchises, and liberties, as have only one justice of the peace of the quorum, that all acts, orders, adjudications, warrants, indentures of apprenticeship, or other instruments, which shall be made done or executed by two or more justices of the peace within such cities, boroughs, towns corporate, franchises, and liberties, though neither of the said justices are of the quorum, shall be valid and effectual in law: And whereas it is expedient that the provisions of the said Act should be extended to such cities and other jurisdictions as have two or any other limited number of justices of the quorum qualified to act within the same: Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons,

in this present Parliament assembled, and by the authority of the same, That from and after the passing of this Act, in all cases where the number of justices of the peace for any city, borough, town corporate, franchise, liberty, or other local jurisdiction, is limited, and any one two or more of such justices only are of the quorum, all acts, orders, adjudications, warrants, indentures of apprenticeship, or other instruments, which shall be made done or executed, either in or out of the general quarter sessions or petty sessions, or any adjournment thereof, by virtue of any charter or grant, or by virtue of any Act of Parliament made or to be made, by any two or more justices of the peace acting within the same, though neither of the said justices be of the quorum, shall be valid in law, to all intents and purposes as if the said justices had been of the quorum; any grant, charter, law, or custom to the contrary thereof in anywise notwithstanding.

No. XXXII.

5 Geo. IV.
c. 18.

In Places having a limited Number of Justices, any of such Justices empowered to act, though not of the Quorum.

[No. XXXII.] 5 Geo. IV. c. 18.—An Act for the more effectual Recovery of Penalties before Justices and Magistrates on Conviction of Offenders; and for facilitating the Execution of Warrants by Constables.—[31st March 1824.]

WHEREAS by several Acts, certain penalties and forfeitures are imposed on persons for offences committed against the directions of such Acts, which are directed to be recovered before any justice or justices of the peace, or any magistrate or magistrates, within their respective jurisdictions; and on non-payment thereof, such penalties and forfeitures, together with the reasonable costs and charges attending the several convictions, are directed to be levied by distress and sale of the goods and chattels of the offender or offenders, by warrant under the hand and seal of such justice and magistrate respectively: And whereas no power is given to such justices and magistrates, on conviction of such offenders, to detain him her or them in custody till return is made to the warrant of distress, for the purpose of ascertaining whether such offenders have any goods and chattels to satisfy such penalties, forfeitures, costs, and charges, whereby such offenders frequently escape any punishment for their offences: For remedy whereof, may it please your Majesty that it may be enacted; and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That from and after the passing of this Act, whenever any penalty or forfeiture is or shall be directed to be recovered before any justice or justices of the peace, or magistrate or magistrates, for any county, riding, soke, city, division, or place, and such justice or justices of the peace, magistrate or magistrates, is or are authorized and empowered, on the conviction of the offender or offenders, in default of payment of such penalty or forfeiture, together with the reasonable costs and charges attending such conviction, to cause the same to be levied by distress and sale of the goods and chattels of the offender or offenders, by warrant or warrants under the hand and seal of such justice or magistrate, or hands and seals of such justices or magistrates, together with the reasonable costs of such distress and sale; and in case upon a valuation being taken of the goods and chattels of the offender or offenders, sufficient distress for the payment of all such penalties and forfeitures and other costs and charges cannot be found, or in case it shall appear to such justice or justices, magistrate or magistrates, either by the confession of the offender or offenders or otherwise, that the offender or offenders has or have not sufficient goods or chattels whereupon the same may be levied, within the jurisdiction of such justice or justices, magistrate or magistrates, no sale shall take place of the goods and chattels of such offender or offenders, but it shall be lawful for such justice or justices, magistrate or magistrates, to commit such offender or offenders to the common gaol or house of correction, for such time and in such manner as in such Acts respectively

When a Penalty is directed to be recovered before a Justice, on Default of Payment Justice may distrain on the Offender's Goods.

In default of sufficient Distress no Sale of Goods shall take place, but Offender may be committed, unless Security be given, &c.

No. XXXII.

5 Geo. IV.

c. 18.

mentioned and directed, then and in every such case it shall and may be lawful to and for such justice or justices, magistrate or magistrates, at his or their discretion, to order the offender or offenders so convicted to be kept and detained in safe custody until return shall be made to such warrant or warrants of distress, unless such offender or offenders shall give sufficient security, to the satisfaction of such justice or justices, magistrate or magistrates, for his her or their appearance before him or them on such day or days as shall be appointed for the return of such warrant or warrants of distress, such day or days not being more than eight days from the time of taking such security; and such security such justice or justices, magistrate or magistrates, is and are hereby empowered to take by way of recognizance or otherwise, as to him or them shall seem right and proper; or in case it shall appear to the satisfaction of such justice or justices, magistrate or magistrates, either by the confession of the offender or offenders or otherwise, that he she or they hath not or have not goods or chattels within the jurisdiction of such justice or justices, magistrate or magistrates, sufficient whereon to levy all such penalties and forfeitures, costs and charges, such justice or justices, magistrate or magistrates, may at his or their discretion, without issuing any warrant of distress, commit the offender or offenders for such period of time, and in such and like manner, as if a warrant of distress had been issued and a *nulla bona* returned thereon.

In Cases where Penalties are directed to be recovered by Distress, but no Remedy provided where sufficient Distress cannot be found, Justices may commit the Offender, &c.

II. And whereas by some Acts certain penalties or sums of money are to be recovered before a justice or justices of the peace, or a magistrate or magistrates, and he or they is and are authorized to issue forth his or their warrant for levying such penalties or sums of money, by distress and sale of the goods and chattels of the offender or defendant; but no further remedy is provided in case no sufficient goods and chattels can be found whereon to levy such penalties or sums of money; for remedy whereof, be it further enacted, That whenever it shall appear to any such justice or justices of the peace, magistrate or magistrates, by whom any penalty or sum of money is adjudged to be paid, upon the return of any such warrant of distress, that no sufficient goods and chattels of the offender or defendant can be found whereon to levy the sum adjudged to be paid, and all costs and charges, within the jurisdiction of such justice or justices, magistrate or magistrates, or in case it shall appear to such justice or justices, magistrate or magistrates, either by the confession of the party or parties, or otherwise, that he she or they have not sufficient goods and chattels within the jurisdiction of such justice or justices, magistrate or magistrates, sufficient whereon to levy such sum of money costs and charges, such justice or justices, magistrate or magistrates, at his or their discretion, and without issuing any warrant of distress, may proceed in such and the like manner as if a warrant of distress had been issued and a *nulla bona* returned thereon; and it shall be lawful for such justice or justices, or magistrate or magistrates, to issue forth his or their warrant for committing such offender or defendant to the common gaol, for any term not exceeding three calendar months, unless the sum adjudged to be paid, and all costs and charges of the proceedings, shall be sooner paid: Provided always, that the amount of such costs and expences shall be specified in such warrant of commitment.

If Offender, after Commitment to Prison, shall pay the Amount of Penalty, &c., to the Keeper, he shall be forthwith discharged.

III. And be it further enacted, That in the case of any offender or offenders committed to the common gaol or house of correction for default of payment of such penalty or forfeiture, together with the reasonable costs and charges attending the conviction, if such offender or offenders shall at any time, during the period of his her or their imprisonment, pay or cause to be paid to the governor or keeper of the prison, the full amount of such penalty, together with the costs and charges, it shall be lawful for such governor or keeper of such prison, and he or they are hereby required forthwith to discharge such offender or offenders from his or their custody.

Justices entered to

mit to Prison without issuing warrant of Distress in certain Cases.

IV. And whereas cases may occur where the recovery of such penalty or forfeiture by distress and sale of the goods and chattels of the offender

or offenders may appear to the justice or justices of the peace, or magistrate or magistrates, for any county, riding, soke, city, division, or place, to be attended with consequences ruinous, or in an especial manner injurious to the offender or offenders and their family or families; be it enacted, That the justice or justices, and magistrate or magistrates aforesaid, shall be empowered, and they are hereby authorized, in all cases and upon all such occasions as to them shall seem fit, and where such consequences are likely to arise, to cause to be withheld the issue of any warrant or warrants of distress, and to commit the offender or offenders aforesaid immediately after conviction, and in default of payment of the penalty or forfeiture, with costs and charges, to the common gaol or house of correction, for such time and in such manner as are in such Acts respectively mentioned and directed: Provided always, that it be by the desire or with the consent in writing of the party or parties upon whose property the penalty or forfeiture is to be levied.

V. Provided always, and be it enacted, That nothing herein contained shall extend or be construed to extend to that part of the United Kingdom of *Great Britain and Ireland* called *Scotland*.

VI. And whereas warrants addressed to constables, headboroughs, tithingmen, borsholders, or other peace officers of parishes, townships, hamlets, or places, in their characters of and as constables, headboroughs, tithingmen, borsholders, or other peace officers of such respective parishes, townships, hamlets, or places, cannot be lawfully executed by them out of the precincts thereof respectively, whereby means are afforded to criminals and others of escaping from justice: For remedy whereof, be it further enacted, That it shall and may be lawful to and for each and every constable, and to and for each and every headborough, tithingman, borsholder, or other peace officer, for every parish, township, hamlet, or place, to execute any warrant or warrants of any justice or justices of the peace, or of any magistrate or magistrates, within any parish, township, hamlet, or place, situate lying or being within that jurisdiction for which such justice or justices, magistrate or magistrates, shall have acted when granting such warrant or warrants, or when backing or indorsing any such warrant or warrants, in such and the like manner as if such warrant or warrants had been addressed to such constable, headborough, tithingman, borsholder, or other peace officer, specially by his name or names, and notwithstanding the parish, township, hamlet, or place in which such warrant or warrants shall be executed, shall not be the parish, township, hamlet, or place for which he shall be constable, headborough, tithingman, or borsholder, or other peace officer, provided that the same be within the jurisdiction of the justice or justices, magistrate or magistrates, so granting such warrant or warrants, or within the jurisdiction of the justice or justices, magistrate or magistrates, by whom any such warrant or warrants shall be backed or indorsed.

No.
XXXIII.
5 Geo. IV.
c. 102.

Consent of
Party.

Act not to extend to Scotland.

Constables may execute Warrants out of their Precincts, provided it be within the Jurisdiction of the Justice granting or backing the same.

[No. XXXIII.] 5 Geo. IV. c. 102.—An Act to amend an Act of the Forty-eighth Year of the Reign of His late Majesty, for the more effectual Administration of the Office of a Justice of the Peace, and for the more effectual Prevention of Felonies within the District of *Dublin Metropolis*.—[21st June 1824.]

WHEREAS by virtue of an Act made in the forty-eighth year of the reign of his late Majesty King George the Third, intituled *An Act for the more effectual Administration of the Office of a Justice of the Peace, and for the more effectual Prevention of Felonies within the District of Dublin Metropolis*, his Majesty's castle of *Dublin*, and all places within eight miles thereof, have been united in and now form one district, called 'The Police District of *Dublin Metropolis*;' and conformably to the provisions of the said Act in such behalf, the said district hath been divided into and consists of six divisions, in each of which divisions one public office is

48 G. 3. c. 140.

No.
XXXIII.
5 Geo. IV.
c. 102.

Lord Lieutenant empowered to divide Police District into Four Divisions instead of Six, and to cause Four Police Offices to be established.

On such Division Lord Lieutenant shall select Divisional Justices, consisting of four Barristers, Four Aldermen, and Four Sheriffs Peers. One of each of whom shall be attached to each of the Four Offices. Two Aldermen and Sheriffs Peers to be selected out of those elected by Dublin Corporation.

Justices, Clerks, &c, may be superseded at Discretion of Lord Lieutenant, on Two-thirds of their Salaries; or attached to some of the Four Offices with full Salary.

Vacancies of Justices to be filled up out of Supernumerary Magistrates of same Description; or otherwise to be supplied by Appointment of Lord Lieutenant, or Election of Corporation

r 48 G. 3. c. 140.

established, and to each of which offices are attached three divisional justices, making in the whole eighteen divisional justices, appointed and acting as such justices, under the authority of the said recited Act: And whereas it may be expedient that the number of the said divisions and police offices, and the number of the said divisional justices respectively, should be reduced: Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, that at any time after the passing of this Act, it shall and may be lawful to and for the lord lieutenant or other chief governor or governors of *Ireland* for the time being, if he or they shall think fit so to do, by warrant under hand and seal, to divide the whole of the said police district of *Dublin* metropolis into four divisions, in lieu of the six divisions into which such district is at present divided, and to ascertain, direct, declare, and define the limits of such four divisions respectively, and to cause four several public offices to be established, one thereof in and for each of such four divisions, and to cause such four divisions, and the limits thereof, and the offices therein, to be changed from time to time, as such lord lieutenant or other chief governor or governors shall think fit and proper, at his and their will and pleasure.

II. And be it further enacted, That in case and whenever the said police district shall be divided into four divisions in manner aforesaid, it shall and may be lawful to and for the lord lieutenant or other chief governor or governors of *Ireland* for the time being, and he and they is and are hereby empowered and required, to select from and out of the divisional justices appointed or who may be appointed under the authority and provisions of the said recited Act, and who shall be acting as such justices at the time of such division, such twelve of the said divisional justices, consisting of four barristers, four aldermen of the city of *Dublin*, and four sheriffs peers, or members of the common council of the said city, as such lord lieutenant or other chief governor or governors, in the exercise of his or their discretion, shall think proper; and that three of such divisional justices, that is to say, one barrister, one alderman, and one sheriffs peer or member of the common council shall be attached to each of the said four police offices to be established under this Act: Provided always, that two of the said four aldermen, and two of the said four sheriffs peers, or members of the said common council so to be selected, shall be such aldermen and sheriffs peers or members of the said common council, as were originally elected by the corporation of the city of *Dublin*, under the provisions of the said recited Act.

III. And be it further enacted, That upon such reduction it shall and may be lawful for the lord lieutenant or other chief governor or governors of *Ireland* for the time being, and he and they is and are hereby authorized and empowered, in the exercise of his or their discretion, either to dismiss altogether and to supersede any six of the justices of the said police district of *Dublin* metropolis, that is to say, any two barristers, two aldermen, and two sheriffs peers or members of the common council, and also to dismiss or supersede the clerks and chief constables of the offices belonging to two of the present six divisions of the said police district, and to direct that any of such justices clerks and chief constables respectively, shall be allowed and shall receive two-thirds of their present salaries respectively, for the period of their several natural lives, or otherwise to attach all or any of such justices clerks and chief constables, to some one or more of such divisional offices as shall remain or be established by virtue of this Act, to attend and act therein as supernumerary magistrates clerks and chief constables, retaining their full salary; and the vacancies in the offices of the twelve selected divisional justices shall, from time to time as they occur, be filled up from and out of such supernumerary magistrates, so that finally there shall be but twelve divisional justices: Provided always, that whenever any such vacancy shall arise, from the death resignation or removal of a barrister, and there shall not

be any barrister amongst such supernumerary magistrates, or from the death resignation or removal of an alderman, and there shall not be any alderman amongst such supernumerary magistrates, or from the death resignation or removal of a sheriff's peer or common councilman, and there shall not be any sheriff's peer or common councilman amongst such supernumerary magistrates, then and in every such case such vacancy shall be filled up within one calendar month, by the appointment of the lord lieutenant or other chief governor or governors of *Ireland* for the time being, or by election and approbation in manner in the said recited Act mentioned; and such appointment shall be made by the lord lieutenant or other chief governor or governors of *Ireland* for the time being, whenever the vacancy is occasioned by the death removal or resignation of any person originally appointed by him or them, or by his or their predecessors; and such election shall be made by the corporation of the city of *Dublin*, in manner directed by the said recited Act, whenever the vacancy shall be occasioned by the death removal or resignation of any person originally elected by them respectively; it being the true intent and meaning of this Act, that the twelve divisional justices of such four divisions shall be appointed by the lord lieutenant or other chief governor or governors of *Ireland* for the time being, and elected by the corporation of the city of *Dublin* respectively, in the same proportions as the eighteen divisional justices under the said recited Act are directed to be appointed and elected, that is to say, that the lord lieutenant or other chief governor or governors of *Ireland* for the time being shall appoint eight out of such twelve divisional justices, namely, four barristers of at least six years standing, two aldermen of the city of *Dublin*, and two persons being sheriffs peers or members of the common council of the said city; and that the said corporation of the city of *Dublin* shall elect the other four divisional justices, to wit, two aldermen, and two sheriffs peers or common councilmen; and any vacancies in the offices of clerks or chief constables, at any of such four divisional offices, shall, from time to time as they occur, be filled up from and out of the supernumerary clerks and chief constables acting under the provisions of this Act.

IV. Provided always, and be it enacted, That all allowances of any proportion of salary to any justices clerks or chief constables superseded under or by virtue of this Act, shall be charged and chargeable on the funds applicable to the establishment of the said police; and that the payment of any and every such annual allowance shall altogether cease and be suspended during any period while the person to whom such allowance shall be granted shall hold any office place or employment under his Majesty, or under the lord lieutenant or other chief governor or governors of *Ireland*, the salary or profits whereof shall be equal to or shall exceed the salary which was enjoyed by such person as such justice clerk or chief constable at the time of his vacating such office respectively; and that the payment of a proportional part of such annual allowance shall cease and be suspended during any period while the person to whom the same shall be granted shall hold any office place or employment under his Majesty, or under the lord lieutenant or other chief governor or governors of *Ireland*, the salary or profits whereof shall be less than the salary which was enjoyed by such person as such justice clerk or chief constable, so that the amount of such annual allowance, together with the salary and profits of any such office place or employment, shall not together exceed the amount of the salary enjoyed by such person at the time of his being superseded as aforesaid.

V. And be it declared and enacted, That from and after the time when the divisions of the said police district of *Dublin* metropolis shall be reduced from six to four, and the divisional justices shall be reduced from eighteen to twelve, in execution of the powers herein before for that purpose given, all and singular enactments, provisions, clauses, articles, matters, and things contained in the said recited Act made in the forty-eighth year of his said late Majesty's reign, shall be and continue to be in full force operation and effect, to all intents and purposes whatever, as if the said recited Act had originally directed the distribution of the said district

No.
XXXIII.
5 Geo. IV.
c. 102.

The Twelve
Justices to be
appointed by
Lord Lieuten-
tenant and Cor-
poration, in like
Proportion as
the Eighteen
Justices under
48 G. 3. c. 140.

Vacancies of
Clerks, &c.,
shall be supplied
from the Super-
numeraries.
Allowances to
Justices, &c.,
charged on Po-
lice Establish-
ment, and shall
be suspended
on Appointment
to any Office
with a Salary
equal to that of
the Office sus-
pended, and in
proportion it to
an Office with
a less Salary.

On Reduction
of the Police
Divisions,
48 G. 3. c. 140.
shall continue
in force with re-
spect to reduced
Divisions.

No.
XXXIII.
5 Geo. IV.
c. 102.

So much of re-
cited Act as re-
lates to Reco-
very of Fines,
Penalties, &c.,
before Two Di-
visional Jus-
tices, repealed.

All Fines, Pe-
nalties, &c.,
recoverable in a
summary Way,
and all Trials
for Offences
(not otherwise
directed) shall
be recovered
and had before
One Divisional
Justice.

Powers and
Jurisdiction of
the Justices of
the Castle Di-
strict extended
to the whole

into four divisions, instead of six, and the establishment of four public offices, one thereof in each of the said four divisions, instead of six public offices, and had likewise originally directed the appointment and election, in manner provided by the said recited Act, of twelve divisional justices within the said district, instead of eighteen divisional justices.

VI. And whereas it is by the said recited Act of the forty-eighth year of his late Majesty's reign enacted, that in all cases where any fines penalties or forfeitures, or shares of fines penalties or forfeitures, where by any law then in force, or should thereafter be limited and made payable to his said late Majesty, his heirs and successors, or to any description of persons other than the informer or informers who should sue for the same, or the party grieved, and which should be recoverable in a summary way before a justice or justices of the peace, the same should and might, within the police district of *Dublin* metropolis, be sued for and recovered at some of the police offices to be established under the authority of the said recited Act, before any two of the divisional justices in such Act mentioned and described, and not before any justice or justices of the peace out of the said offices: And whereas it was also by the said recited Act enacted, that in all cases not therein otherwise particularly described, all trials and convictions for any offences or offence against that Act, which should be committed within the said police district of *Dublin* metropolis, should be had and made respectively in the offices of the divisions in which they should respectively be committed, before not less than two of the said divisional justices in such divisions respectively: And whereas the said provisions in the said recited Act have been found inconvenient; be it therefore enacted, That so much and such parts of the said recited Act as direct or require that in the cases and upon the occasions hereinbefore mentioned there shall be two divisional justices, shall be and the same is and are hereby repealed.

VII. And be it further enacted, That from and after the passing of this Act, in all cases where any fines penalties or forfeitures are by any law in force, or shall hereafter be limited and made payable to his Majesty, his heirs and successors, or to any description of person other than the informer or informers who shall sue for the same, or the party aggrieved, and which shall be recoverable in a summary way before a justice or justices of the peace, the same shall and may, within the police district of *Dublin* metropolis, be sued for and recovered at some one of the police offices within such district, before any one of the divisional justices at such office, and not before any justice or justices of the peace out of the said offices; and that all trials and convictions for any offence against the said recited Act or this Act, in all cases not therein or herein otherwise particularly directed, and which offence shall be committed within the police district of *Dublin* metropolis, may be had and made respectively in the offices of the divisions in which any such offence shall respectively be committed, before any one of the said divisional justices in such divisions respectively; and the proceedings in such respective cases, by and before such one divisional justice, shall be as effectual to all intents and purposes, and shall have the same consequence and results as to fines penalties or forfeitures, or shares of fines penalties or forfeitures, and the appropriation thereof, and the accounting for and paying the same into the hands of the receiver of the public offices, and in every other respect whatever, as if had before two divisional justices in manner directed by the said recited Act, or as if the jurisdiction herein given with respect to such cases to one divisional justice, had been expressly so given in and by and had constituted part of the said recited Act; any thing in the said recited Act to the contrary thereof in anywise notwithstanding.

VIII. And whereas it will be advantageous that the jurisdiction of the divisional justices of the castle division of the said police district of *Dublin* metropolis should be in all respects co-extensive with the whole of the said police district; be it therefore enacted, That all the powers jurisdictions and authorities of every nature and kind whatsoever, vested in the whole Police District of the *Dublin* Metropolis.

in or granted to the divisional justices of police by virtue of the said recited Act of the forty-eighth year of his said late Majesty's reign, or by virtue of this present Act or of any other Act or Acts, or otherwise in any manner whatsoever, and which are or may be exercised by the divisional justices of the division in which his Majesty's castle of *Dublin* shall be situate, touching and in respect to offences, breaches of the law, disputes, matters or things committed arising or taking place, or alleged to have been committed, or to have arisen or taken place within the limits of the said castle division, shall and may be exercised by the said divisional justices of the said castle division or any of them, over upon and in respect to such offences, breaches of the law, disputes, matters, and things, in whatever part of the police district of *Dublin* metropolis such offences matters or things shall have been committed, or shall have arisen or taken place, or shall be alleged to have been committed arisen or taken place, although such part of the said police district shall not be locally situate within the limits of the said castle division, and to all intents and purposes in every respect, as if such offences matters or things had been committed, or had arisen or taken place, or were alleged to have been committed arisen or taken place, within the local limits of the said castle division; any thing in the said recited Act or in this Act, or in any other Act to the contrary thereof in anywise notwithstanding.

IX. And whereas the apprehension of traitors felons and other offenders against the law would be facilitated, and thereby the administration of justice be in many instances rendered more certain, if the divisional justices of the castle division should have and exercise the authority and power of justices of the peace for the counties immediately adjoining the said police district of *Dublin* metropolis; be it therefore enacted, That from and after the passing of this Act, each and every of the divisional justices for the time being of the division of the said police district in which his Majesty's castle of *Dublin* shall be situate, shall be to all intents and purposes, and shall be deemed and taken to be, and is hereby declared to be a justice of the peace within and for the counties of *Dublin, Wicklow, Kildare, and Meath*.

X. And be it further enacted, That all constables and peace officers of for and within the police district of *Dublin* metropolis, appointed and acting as such under the authority of the said recited Act of the forty-eighth year of his late Majesty's reign, or of this Act, shall for the time being have full authority and power to execute, in the counties of *Dublin, Wicklow, Kildare, and Meath*, any warrant or warrants which may be made and granted by the divisional justices of the said castle division, or any of them, under the authority and power vested in them by this present Act, with respect to the said counties of *Dublin, Wicklow, Kildare, and Meath*, to all intents and purposes as if such warrant or warrants were executed or to be executed within the limits of the police district of *Dublin* metropolis; and any and every person obstructing or hindering such constables or peace officers in the execution of any such warrant or warrants, in any of the said counties of *Dublin, Wicklow, Kildare, or Meath*, shall be and are hereby declared to be liable to the same pains and penalties for such obstruction and hinderance, as if such offence had been committed within the said police district of *Dublin* metropolis.

XI. And be it further enacted, That in every case where any divisional justices or justice of the castle division of the police district of *Dublin* metropolis, shall take any information or informations, under the authority by this Act given to them as justices of the peace in or for the said counties of *Dublin, Wicklow, Kildare, and Meath*, such divisional justices or justice shall in due time before the assizes then next ensuing, or before the then next sitting of the court of quarter sessions, as the case may be or require, return all and every such informations or information to the clerk of the crown or clerk of the peace, or other proper officer for the particular county where the offence stated in any such information shall be alleged to have been committed; and such clerk of the crown or clerk of the peace, or other proper officer, shall thereupon give a receipt in writing, under his hand, for such information or informations:

No.
XXXIII.
5 Geo. IV.
c. 102.

Each of the Justices of the Castle Division shall be a Justice of the Peace for the Counties of *Dublin, Wicklow, Kildare, and Meath*.

Constables and Peace Officers of the Police District empowered to execute Warrants granted by the Justices of the Castle Division in the said Four Counties.

Informations taken by the Justices of the Castle Division, as Justices of the Four Counties, shall be returned to the Clerk of the Crown, &c.

No.
XXXIII.
5 Geo IV.
c. 102.

Justices of the
Castle Division
not compellable
Divisional Jus-
tices of the
Castle empow-
ered to direct
Rewards for the
Apprehension
of Offenders.

Constables em-
powered to
break open
Dwelling-
houses, &c., on
the Warrant of
One Divisional
Justice, to
search for Trai-
tors, Felons,
&c.

Provided always, that no justice or justices of the said castle division shall in any instance be compellable to act as a justice or justices of the peace for the said counties of *Dublin, Wicklow, Kildare, and Meath*, or any of them, at any place out of the public office of the said castle division, nor to act as such justice or justices for the said counties, or any of them, upon any information or informations tendered or offered to be sworn, where the offence charged shall not amount to treason or to felony.

to act out of their Office, or in Offences not being Treason or Felony.

XII. And be it further enacted, That in all cases where any treason or felony shall have been or shall be committed in any part of the police district of *Dublin* metropolis, whether within or without the local limits of the castle division, it shall and may be lawful to and for the divisional justices of the said castle division, or any two of them, by warrants under their hands and seals, to direct that such rewards or recompence as they shall think proper, shall be given to any person or persons who shall apprehend or prosecute, or who shall give information tending to the conviction of any person or persons who shall be accused of such offences; and such rewards shall be paid out of the funds applicable to the expences of the police establishment, provided that the sum to be so given shall not in any case exceed twenty pounds.

XIII. And whereas under and by virtue of the said recited Act of the forty-eighth year of the reign of his said late Majesty, it is necessary that warrants granted by the said divisional justices, to break open any dwelling-house, outhouse, shop, warehouse, cellar, or other place named in such warrants, as shall not be opened on demand after due notice of such warrants, in order to search for traitors or felons, or accessories to any traitors or felons, or receivers of stolen goods, or to search for any goods chattels or other things stolen or feloniously taken or carried away, should respectively be so granted by two divisional justices, and that one of such divisional justices should be an alderman: And whereas the provisions of the said Act in such respects have been found to be productive in many instances of great delay to public justice; be it therefore enacted, That from and after the passing of this Act it shall and may be lawful for any and every constable appointed or to be appointed under the said recited Act, or who may be appointed under this Act, being duly authorized thereto by the warrant of any one divisional justice of the said police district of *Dublin* metropolis, and which warrant any one such divisional justice, whether he be an alderman or not, on information on oath to him given, is hereby authorized to grant, to break open any dwelling-house, outhouse, shop, warehouse, cellar, or other place named in such warrant, as shall not be opened on demand after due notice of such warrant, in order to search for any traitor or felon, or for any accessory to any traitor or felon, or for any receiver of stolen goods, or to search for any goods chattels or other things, stolen or feloniously taken or carried away; and any and every warrant so to be granted by any such one divisional justice, shall to all intents and purposes be as valid and effectual in the law as any warrant in any such case by two divisional justices, one thereof being an alderman, have been or could have been under the said recited Act; and the divisional justice who shall grant, and the constable or constables who shall execute any such warrant so herein and hereby authorized, shall respectively have the same privileges, benefits, advantages, and defences, by virtue or on the foot of any such warrant, and upon any proceedings whatever brought had or instituted against them, or any of them, on account of the issuing or execution of any such warrant, and in every other respect whatever, as the divisional justices or constables respectively have heretofore respectively had or could have had under the said recited Act, in cases where, conformably with the provisions thereof in that behalf, such warrants should or might have been granted by two divisional justices, one thereof being an alderman.

Three Divi-
sional Justices, of whom One or more Justices of the Head Office shall constitute a Part, empowered
point and swear in Special Constables, to act without Emolument.

constables, in addition to those ordinarily attached to the establishment of the police district of *Dublin* metropolis, may be deemed necessary to the due maintenance and execution of the law, and the effectual preservation of the public peace within the said district; be it therefore enacted, That from and after the passing of this Act it shall and may be lawful to and for any three divisional justices of the said police district, of whom one or more of the divisional justices of the said castle division shall constitute part, in all cases of actual tumult riot or felony, in any part of the said police district of *Dublin* metropolis, or upon reasonable apprehension thereof, grounded upon information on oath, and if the exigency of the occasion shall in the judgment of such divisional justices so require, and such justices are hereby authorized and empowered to appoint any number of persons to be special constables, to act as constables within the said district for a certain time to be limited by such justices, without fee or reward, and to administer to such persons so appointed the usual oath administered to constables appointed under the said recited Act of the forty-eighth year of his late Majesty's reign; and such special constables when so appointed and sworn in shall, during the time so to be limited by such justices, have all the same powers, authorities, privileges, protections, and advantages, and shall be subject to all the same rules, orders, commands, and regulations, as constables duly appointed under the said recited Act: Provided always, that no such special constable shall be so appointed or sworn in, unless he shall consent to act as constable without any emolument fee or reward whatsoever: Provided also, that it shall and may be lawful to and for the divisional justices who shall have appointed such special constables, or the majority of such justices, before the expiration of the term during which such constables shall have been authorized to act, to annul the appointments made of such constables either in the whole or in part, or to remove such constables or any of them from the office and authority of constables, and thereupon, and after notice given in that behalf, all the authorities powers and privileges of any such special constable so removed, shall cease and determine to all intents and purposes whatsoever, and as if no such appointment had ever been made.

Justices may annul the Appointment of such Special Constables.

XV. And whereas it is by the said recited Act among other things enacted, that it shall be lawful for the constables to be appointed under the provisions of the said Act, or any of them, at all times to enter into any dwelling-house or place kept by any victualler or victuallers, or other person or persons selling or having licence or licences to sell ale or spirituous liquors within the said police district of *Dublin* metropolis, and to apprehend and take into custody every journeyman, apprentice, servant, artificer, or labourer, who shall be found therein drinking tippling or gaming, at any hours or times which are or shall be prohibited by law, not being a lodger or inmate in such house or place, and to carry and convey such persons so apprehended to the public office of the division; and that every such person, being duly convicted in a summary way of such offence, be set in the public stocks for two hours, or be committed to the house of correction for any time not exceeding one month, at the discretion of the divisional justices before whom such person shall be so convicted: And whereas it is by the said recited Act further enacted, that if any victualler or other person selling or licensed to sell beer ale or spirituous liquors, or any person or persons aiding or assisting such victualler or person licensed as aforesaid, shall prevent or endeavour to prevent, by threats or violence, the said divisional justices respectively or any of them, or such chief constable or other constables, as in the said recited Act mentioned, from entering any such dwelling-house or place, and searching for such idle and disorderly persons, or shall assault or otherwise resist such divisional justices, or any of them, or such chief or other constable, every such person so offending shall, upon conviction of every such offence at the sessions for the proper county, forfeit and pay the sum of one hundred pounds, or be committed to the house of correction for any time not exceeding one month, at the discretion of the court before which such person should be so convicted: And whereas it is by

So much of recited Act as relates to Journey-men, Apprentices, &c., tippling or gaming, &c., in Victualling Houses, repealed.

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5 Geo. IV.
c. 102.

the said recited Act further enacted, that every such victualler or person licensed to sell beer ale or spirituous liquors, in whose dwelling-house or other place such person or persons as aforesaid, or any soldier, or any person of the female sex, shall be found drinking tipping or gaming as aforesaid, shall, upon conviction thereof, forfeit the sum of two pounds for the first offence, and shall for the second offence forfeit the sum of twenty pounds, and shall for the third offence forfeit such licence altogether, and that the same shall be null and void; and that it shall not be necessary, in order to warrant any such conviction, that the person or persons so found drinking tipping or gaming, be previously or at all convicted thereof: And whereas the said recited provisions have not been found to be sufficiently effectual for the purposes intended; be it therefore enacted, That all and singular the said several last-recited provisions of the said recited Act shall be and the same are hereby repealed, save only except so far as relates to any Act matter or thing done previous to the passing of this Act, or to any proceeding had or taken, or to be had or taken, with regard to any Act matter or thing under the said recited Act.

Divisional Justices, Constables, &c., empowered to enter into any Dwelling-house kept by a Victualler, &c., and to apprehend Journeymen, Apprentices, &c., tipping or gaming therein at prohibited Hours, or after Twelve o'Clock at Night, not being Lodgers or Inmates, and on Conviction before a Divisional Justice, the Party to be committed to the House of Correction for any Time not exceeding One Calendar Month.

XVI. And be it further enacted, That from and after the passing of this Act it shall and may be lawful for the divisional justices of the police district of *Dublin* metropolis, or any one of them, or for any chief constable, or for any constable authorized for the purpose by any one divisional justice within the division for which such justice shall be then acting, or by any one divisional justice of the castle division, to enter into any dwelling-house or place kept by any victualler or other person selling or having a licence or licences to sell beer or ale or spirituous liquors within the said police district of *Dublin* metropolis, and to apprehend and take into custody any and every journeyman, apprentice, servant, artificer, labourer, sailor, seafaring man or soldier, or any person of the female sex, who shall be found in such dwelling-house or place, and who shall appear to be or to have recently been drinking tipping or gaming therein, at any hour or time which is or shall be prohibited by law, or after the hour of twelve o'clock at night, not being a lodger or inmate of such house or place, and to carry and convey, or cause to be carried and conveyed, every and any such person so apprehended to the public office of the division in which such dwelling-house or place shall be situate; and every such person being duly convicted in a summary way of such offence, before any one or more of the divisional justices of such division, or of the castle division, shall thereupon, for every such offence, forfeit any sum not exceeding twenty shillings nor less than five shillings, as such divisional justice or justices shall think fit; and if any offender so convicted shall not forthwith pay the sum so forfeited, such offender shall be committed to the house of correction for any time not exceeding one calendar month, at the discretion of such justice or justices: Provided always, that upon every such proceeding any and every person apprehended and charged before such justice or justices as a servant, artificer, labourer, sailor, seafaring man, or soldier, shall be deemed and taken to be such respectively, unless satisfactory evidence to the contrary thereof be given on his behalf before such divisional justice or justices; and that in all such cases the proof that the person so apprehended and charged was a lodger or inmate in such house or place where such person shall have been apprehended, shall lie upon such person respectively, and in the absence of such proof such person shall be presumed not to have been such lodger or inmate: Provided also, that if any offender convicted in manner aforesaid shall be a soldier on full pay, and attached to any regiment in his Majesty's service within the said police district, a communication shall be forthwith made thereof by the justice or justices before whom such conviction shall have taken place, to the commanding officer of such regiment; and the offender so convicted shall be detained until delivered over to such commanding officer, or his order, to be amenable to military discipline.

Penalty on
victuallers,

, opposing the Entry of any Divisional Justice; or Chief or other Constable, and Persons aiding assisting, not exceeding 10*l*.;

XVII. And be it further enacted, That if any victualler or other person selling or licensed to sell beer ale or spirituous liquors, or any person

or persons aiding or assisting such victualler or person selling or licensed to sell as aforesaid, shall prevent or endeavour to prevent, by threats or violence, any such divisional justice or justices, or any chief constable or other constable or constables as aforesaid, from entering any such dwelling-house or place, and searching for such person or persons as aforesaid, or shall assault or otherwise resist any such divisional justice or justices, or any such chief or other constable or constables as aforesaid, every such person so offending shall, upon conviction of any such offence before any one divisional justice of the district in which such dwelling-house shall be situate, or before any one justice of the castle division, forfeit and pay any sum not exceeding ten pounds; the same, in default of payment on demand, to be levied by distress and sale of the offender's goods, and when levied to be paid over to the receiver of the public offices of the said police district; and in default of a sufficient distress for such purpose, then it shall and may be lawful for such divisional justice to commit such offender to the house of correction, for any space of time not exceeding one calendar month, or until such penalty shall be sooner paid.

XVIII. And be it further enacted, That if any victualler or other person selling or licensed to sell beer ale or spirituous liquors, shall not on demand made of entrance, by knocking or otherwise, so as to be heard within, admit any divisional justice or justices, or any chief or other constable or constables as aforesaid, into any dwelling-house or place of such victualler or other person, for the purpose of making such search as aforesaid; or if such victualler or other person selling or licensed to sell as aforesaid, shall neglect or delay, for an unreasonable time after such demand of entrance, to admit any justice or justices, or any chief or other constable or constables as aforesaid, into any dwelling-house or place of such victualler or other person, in order thereby to defeat or counteract the object of such search or intended search as aforesaid, such victualler or other person so offending shall, upon due proof thereof before any one divisional justice of the division in which such dwelling-house or place shall be situate, or before any one justice of the castle division, forfeit and pay for every such offence any sum not exceeding five pounds, at the discretion of such justice; the same, in default of payment on demand, to be levied by distress and sale of the offender's goods, and when levied to be paid over to the receiver of the public offices; and in default of a sufficient distress, then it shall and may be lawful for such divisional justice to commit the offender to the house of correction, for any space of time not exceeding fourteen days, or until such penalty shall be sooner paid.

XIX. And be it further enacted, That every victualler or other person selling or licensed to sell beer ale or spirituous liquors, within the police district of *Dublin* metropolis, in whose dwelling-house or other place any journeyman, apprentice, servant, artificer, labourer, sailor, seafaring man, or soldier, or any person of the female sex, shall be found, or shall appear to be or to have recently been drinking tippling or gaming therein, at any hour or time which is or shall be then prohibited by law, or after the hour of twelve of the clock at night, not being a lodger or inmate in such house or place, shall upon conviction thereof in a summary way, before any one of the divisional justices of the division in which such dwelling-house or place shall be situate, or before any one justice of the castle division, forfeit and pay the sum of two pounds for the first offence, and shall for the second offence forfeit and pay the sum of twenty pounds, and shall for the third offence forfeit and pay the sum of fifty pounds; and upon conviction for such third offence, the licence of such victualler or other person shall be forfeited, and shall be and become absolutely null and void; and the said penalties of two pounds, twenty pounds, and fifty pounds, in default of payment on demand, shall be levied by distress and sale of the offender's goods, and when levied shall be paid over to the receiver of the public offices; and in default of sufficient distress, it shall and may be lawful for the convicting justice to commit the offender to the house of correction, for any space of time not

to be levied by
Distress and
Sale; in De-
fault Offender
to be committed
for One Month.

Penalty on
Victuallers,
&c., refusing to
admit such Jus-
tices or Con-
stables, not ex-
ceeding 5*l*;

to be levied
by Distress.

Penalty on Vic-
tuallers, &c., in
whose Houses
Persons shall be
found Tippling
or Gaming, 2*l*.
for First Of-
fence, 20*l*. for
the Second, and
50*l*. for the
Third, and For-
feiture of
Licence;

to be levied by
Distress;

or Imprison-
ment, not ex-
ceeding One
Month.

No.
XXXIII.
5 Geo. IV.
c. 102.

Proof to be on
Victualler that
Parties keeping
were not Ap-
prentices, &c.,
or were Lodgers.

So much of re-
cited Act as re-
lates to taking
out Licence for
keeping Hotels
for Entertain-
ment of nightly
Lodgers, re-
pealed.

Justices of Cas-
tle Division
empowered to
make Rules and
Regulations for
the Stands and
Conduct of Dri-
vers of hired
Carriages, &c.,
to be approved
of by the Re-
corder.

Penalty on Dri-
vers not con-
forming, 40s.;

or Imprison-
ment for Four-
teen Days.

Two Divisional
Justices empow-
ered to hear and
determine be-
tween Pawn-
brokers and
Borrowers;

and to levy the
Money awarded
Distress;

exceeding one calendar month: Provided always, that upon the trial of any information or complaint for any such offence, any person having been in such dwelling-house or place, and who in or by such information or complaint shall be stated to be a journeyman, apprentice, servant, artificer, labourer, sailor, seafaring man, or soldier, shall be deemed and taken to be such respectively, unless satisfactory evidence to the contrary there- of be given before such justice; and that proof that any person so found was a lodger or inmate in such house or place, shall lie upon such vic- tualler or other person selling or licensed to sell as aforesaid; and in the absence of such proof, any such person shall be presumed not to have been a lodger or inmate; provided also, that it shall not be necessary in order to warrant any conviction of any such victualler or person selling or licensed to sell as aforesaid, for any such offence as aforesaid, that any person or persons so found in such house or place, under such circum- stances as aforesaid, be previously or at all convicted of any such offence.

XX. And be it further enacted, That so much of the said recited Act of the forty-eighth year of his said late Majesty's reign, as requires any person opening or keeping an hotel or public house for the entertainment of nightly lodgers, to take out any licence or to pay any duty, or as im- poses any forfeiture or penalty for or in respect of such hotel or public house for the entertainment of nightly lodgers, not being so licensed, shall be and the same is hereby repealed; save and except only so far as relates to any proceeding had or taken or to be had or taken for the re- covery of any duty for a licence for keeping such hotel or public house, due and demandable at any time before the passing of this Act, under the provisions of the said recited Act; or for the recovery of any penalty legally incurred under the said recited Act at any time before the passing of this Act.

XXI. And be it further enacted, That from and after the passing of this Act, it shall and may be lawful to and for the divisional justices of the castle division of the said police district for the time being, or any two of them, from time to time to make such rules and regulations with respect to the stands and stations, and the orderly and regular conduct of the drivers of all carriages (save and except mail and stage coaches), horses, chaises, jaunting carts, caravans, and other vehicles whatsoever, publicly plying or carrying passengers for hire to or from the city of *Dublin*, whe- ther licensed or not, whenever such carriages or other vehicles respec- tively shall have arrived or shall be within the police district of *Dublin* metropolis, as to such divisional justices of the castle division shall seem fitting and expedient; provided always, that such rules and regulations shall be sanctioned and approved of by the recorder of the city of *Dublin*; and if any driver of any such carriage shall not duly conform to such rules and regulations so to be made and approved as aforesaid, or any of them, or shall be guilty of any offence contrary thereto, such driver shall, upon conviction before the divisional justices of the said castle division, or any one of them, in a summary way, forfeit and pay for every such offence any sum not exceeding forty shillings, and in default of payment thereof upon demand, shall be committed to the common gaol or house of cor- rection for a period not exceeding fourteen days, or until such fine shall be sooner paid.

XXII. And whereas by the said recited Act of the forty-eighth year of the reign of his late Majesty King *George* the Third, and certain Acts therein recited and referred to, the provisional justices of the police dis- trict of *Dublin* metropolis, have now vested in them full power and autho- rity to hear and determine in a summary way all disputes which may arise between any pawnbroker and any borrower touching or concerning any pawn or pledge; but the said divisional justices have not power or authority to enforce the due performance of such determination or adju- dication, by reason whereof divers ill-disposed persons are enabled to avoid justice; be it therefore enacted, That from and after the passing of this Act, whenever any dispute between any pawnbroker and any bor- rower, touching or concerning any pawn or pledge, shall be determined by the said divisional justices or any two of them, and any sum of money

shall be awarded to be paid, it shall be lawful, in case of non-payment of any such sum of money, for such divisional justices making such determination, by warrant under their hands and seals, to cause the amount of any sum of money so awarded to be paid, to be levied by distress and sale of the goods and chattels of the persons who shall be ordered to pay the same; and for want of sufficient goods to satisfy such sum, it shall be lawful for such divisional justices, by like warrant, to commit the person against whom any such order or award shall be made to any house of correction within the said police district, for any period not exceeding one calendar month, or until such sum shall be sooner paid and satisfied.

XXIII. And whereas under and by virtue of a certain provision in the said recited Act, passed in the said forty-eighth year of the reign of his said late Majesty, it is required that the same watch constables and watchmen should not be two succeeding nights in the same watch-house; and such regulation has been found inconvenient in practice; be it therefore enacted, That so much of the said recited Act as enjoins such dispositions of the watch constables and watchmen, shall be and the same is hereby repealed; and that from and after the passing of this Act, the arrangement in all respects of the said watch constables and watchmen, with reference to the watch-houses, shall be and the same is hereby committed to the superintendence and direction of the divisional justices of the castle division; and it shall be lawful for such justices, or any two of them, and they are hereby authorized empowered and required, from time to time, to make such rules as shall appear to such justices to be expedient or necessary in that behalf.

XXIV. And for the better administration of the police within that portion of the police district of *Dublin* metropolis consisting of the city of *Dublin* and those parts of the county of *Dublin* which are contiguous thereto; be it therefore enacted, That it shall and may be lawful for the constables of the nightly watch, and each of them, appointed or to be appointed under the authority of the said recited Act of the forty-eighth year of the reign of his said late Majesty King *George the Third*, in the respective watch-houses which they shall or may be appointed to attend, between the hours of eight in the afternoon and six in the forenoon, to take bail by recognizance, without fee or reward, from any person who shall be brought into the custody of them or any of them within the said hours, without the warrant of a divisional or other justice of the peace, charged with any petty misdemeanor, if such constable shall deem it prudent to take such bail, for the appearance of such person before the divisional justices, or one of them, at one of the said public offices, to be specified in the recognizance, for examination, at the hour of nine in the forenoon next after such recognizance shall be taken, unless that hour shall fall on a *Sunday*, and in that case at the like hour on the succeeding *Monday*; and that every recognizance so to be taken shall be of equal obligation on the parties entering into the same, and liable to the same proceedings for the estreating thereof, as if the same had been taken before one of the said divisional justices; and every such constable respectively shall enter in a book, to be kept for that purpose in every watch-house, the name residence and occupation of any party, and his or her sureties, entering into such recognizance, together with the condition thereof, and the sums respectively acknowledged, and shall lay the same before such divisional justices or justice as shall be present at the time and place when and where the party is required to appear; and if the party does not appear at the time and place required, or within one hour after, the said divisional justices or justice shall cause a record of the recognizance to be drawn up, to be signed by such constable as aforesaid, and shall return the same to the next general or quarter sessions of the peace for the city of *Dublin*, or for the county of *Dublin* respectively, as the case may require, in which the offence charged should be brought to trial, with a certificate at the back thereof, signed by such divisional justice or justices, that the party has not complied with the obligation therein contained, and the clerk of the peace shall make the like estreats and schedules of every such recognizance, as of recognizances forfeited in the

No.

XXXIII.

5 Geo. IV.

c. 102.

and for want of
Distress to im-
prison the Party
for One
Month.

So much of re-
cited Act as re-
quires Watch
Constables, &c.,
not to be Two
succeeding
Nights in the
same Watch-
house, repealed.
Divisional Jus-
tices to make
Rules for Ma-
nagement of
the Watch.

Constables of
the Nightly
Watch, be-
tween Eight in
the Afternoon
and Six in the
Forenoon, may
take Bail, &c.,
from Persons in
Custody
charged with
Petty Misd-
emeanors.

Recognizances
to be taken and
entered into a
Book.

In Default of
Appearance
Recognizance to
be estreated.

No.
XXXIII.
5 Geo. IV.
c. 102.

Service of Sum-
mons on Wit-
nesses suffi-
cient, if left at
the Place of
Abode.

Penalty on
Witnesses not
attending, &c.,
40s., leviable
by Distress, or
Imprisonment
for fourteen
Days.

Lord Lieu-
tenant may in-
crease Record-
er's Salary out
of the Police
Establishment,
not exceeding
600*l.* a Year.

Recorder not to
practise in any
Court in the
District of the
Metropolis.
Application of
Penalties.

sessions of the peace; and if the party not appearing shall apply by any person on his behalf to postpone the hearing of the charge against such party, and the divisional justices or justice shall think fit to consent thereto, the said justices or justice shall be at liberty to enlarge the recognizance to such further time as they or he shall appoint; and when the matter shall be heard and determined, either by the dismissal of the complaint, or by binding the party over to answer the matter thereof at the sessions, or other court of competent jurisdiction for the trial thereof, the recognizance for the party's appearance before the divisional justices or justice shall be discharged without fee or reward.

XXV. And be it further enacted, That in any proceeding by or before any divisional justice or justices of the district of *Dublin* metropolis, or by or before any divisional justice or justices of the castle division, acting in pursuance of any special authority or jurisdiction as such justices or justice of the said castle division, it shall not be necessary for the summoning of any witness under the said recited Act of the said forty-eighth year of his said late Majesty's reign, or under this Act, that any summons or notice or order whatsoever shall be personally served on any such witness, but it shall in all such cases be sufficient that such summons notice or order be served twenty-four hours previous to the time appointed for hearing or proceeding on any process to which such summons shall relate, at the place or places of abode of any such witness or witnesses.

XXVI. And be it further enacted, That if any person or persons shall be summoned as a witness or witnesses to give evidence before any divisional justice or justices of the police district of *Dublin* metropolis, touching any offence or other matter or thing to be determined under the said recited Act of the forty-eighth year of his late Majesty's reign, or this Act, either on the part of the prosecutor or of the person or persons accused, and shall neglect or refuse to appear at the time and place to be for that purpose appointed, without a reasonable excuse for such neglect or refusal, to be allowed of by such justice or justices, or appearing shall refuse to be examined on oath, and to give evidence before such justice or justices before whom the prosecution or proceeding shall be depending, every such person so offending shall, upon due proof thereof before such justice or justices, forfeit and pay for every such offence any sum not exceeding forty shillings, at the discretion of such justice or justices; the same, in default of payment on demand, to be levied by distress and sale of the goods and chattels of the offender, and when levied to be paid over to the receiver of the public offices; and in default of a sufficient distress, it shall be lawful for such justice or justices to commit the offender to the house of correction for any space of time not exceeding fourteen days, or until such penalty shall be sooner paid.

XXVII. And be it further enacted, That at any time after the passing of this Act it shall and may be lawful for the lord lieutenant, or other chief governor or governors of *Ireland*, for the time being, to direct any yearly sum, not exceeding the sum of six hundred pounds, clear of all taxes and deductions, to be paid out of the funds applicable to the expence of the said police establishment, to the recorder of the city of *Dublin*, from time to time, for the time being, in augmentation of his salary, and over and above and in addition to any yearly and other sum of money to which such recorder is or may be entitled under the said recited Act of the forty-eighth year of his said late Majesty, or otherwise howsoever: Provided always, that it shall not be lawful for any person who now holds, or who shall hereafter hold the office of recorder of the said city, to act or practise as counsel in any criminal or civil court within the police district of the said metropolis of *Dublin*, at any time after the expiration of one calendar month next after the passing of this Act.

XXVIII. And be it further enacted, That all fines penalties and forfeitures payable under this Act, shall, when the same shall be imposed on the prosecution of an informer, be paid, after deducting the necessary costs of recovering the same, one moiety to the receiver of the public offices in the said police district of *Dublin* metropolis, and the other moiety to the informer or person who shall sue for the same; and that

all fines penalties and forfeitures payable under this Act, other than such as last before-mentioned, shall be paid to the said receiver; and all sums so paid to the said receiver shall go in aid of the funds of the police district of *Dublin* metropolis.

XXIX. And be it further enacted, That in all cases of complaints or informations under this Act, or by virtue thereof, for any offence for which any fine or pecuniary penalty is to be imposed, the informer or prosecutor shall be deemed a competent witness to prove the offence, and his testimony, if believed, shall be sufficient for that purpose, without any other evidence.

XXX. And be it further enacted, That all convictions for any offence or offences under or by virtue of this Act, may be in the same summary form as is allowed by the said recited Act of the forty-eighth year of his said late Majesty's reign, for convictions under that Act, with the like benefit of appeal, in all respects, as under the said recited Act; and no conviction to be had before any of the said divisional justices under or by virtue of this Act, or the said Act passed in the said forty-eighth year of the reign of his said late Majesty, shall be quashed for any defect of form, nor shall any conviction under this Act, or the said recited Act, nor any affirmation or reversal thereof under appeal, be removed, by *certiorari* or otherwise, into any of his Majesty's superior courts.

XXXI. And be it further enacted, That if it shall become necessary to prove the power, office, authority, or appointment of any of the divisional justices or constables, or of the receiver, or of any other officer or person appointed or acting under or by virtue of this Act as aforesaid, it shall in all cases be sufficient, to all intents and purposes, to prove that the said person or persons, at the time in question, was or were commonly known or reputed to hold such office or situation respectively; and it shall not in any such case be necessary to produce or prove any appointment or qualification whatsoever of such person or persons.

No.
XXXIV.
6 Geo. IV.
c. 21.

Informer a
competent
Witness.

Form of Con-
viction.

No Conviction
to be quashed
for want of
Form.

Reputation that
Persons hold
Office under
this Act suffi-
cient Evidence
of Appoint-
ment.

[No. XXXIV.] 6 Geo. IV. c. 21.—An Act to amend an Act for the more effectual Administration of the Office of Justice of the Peace in and near the Metropolis.—[20th May 1825.]

WHEREAS by an Act passed in the third year of his present Majesty's reign, intituled *An Act for the more effectual Administration of the Office of a Justice of the Peace in and near the Metropolis, and for the more effectual Prevention of Depredations on the River Thames and its Vicinity, for Seven Years*, the yearly salary payable to each of the justices appointed under the said Act is fixed at six hundred pounds: And whereas it is expedient to increase the said salary: Be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That it shall be lawful to pay to each of the justices appointed or to be appointed under the said Act, such yearly salary as shall be directed by one of his Majesty's principal secretaries of state, not exceeding the sum of eight hundred pounds, to commence from the fifth day of *April* one thousand eight hundred and twenty-five.

3 G. 4. c. 55.

Justices' Sala-
ries.

II. And whereas by the said recited Act the chief magistrate of the public office in *Bow-street* is empowered to administer to the officers of the said office, and to the horse and foot patrol acting under the orders of the said chief magistrate, an oath duly to execute the office of constable within the counties of *Middlesex, Surrey, Essex, and Kent*; and each of the persons so sworn is empowered to act as a constable in the manner therein mentioned; and it is expedient to extend the powers of the persons so sworn as herein-after mentioned; be it therefore further enacted, That it shall and may be lawful for the chief magistrate of the said public office in *Bow-street* to administer to such persons respectively an oath duly to execute the office of a constable within the counties of *Middlesex, Surrey,*

Bow-street.
Officers and
Patrol to have
Powers of Con-
stables within
certain Coun-
ties, and within
the Royal Pa-
laces.

No.
XXXIV.
6 Geo. IV.
c. 21.

In case of Re-
moval of Bow-
street Office,
Powers to con-
tinue.

Police Magis-
trates may
swear in Street
Keepers to act
as Constables.

Offenders sen-
tenced to House
of Correction,
maybe adjudged
to hard Labour.

Summons for
Persons to ap-
pear at any
Place without
the Limits spe-
cified in recited
Act, void.

Offences pu-
nishable under
3 G. 4. c. 40.
shall be punish-
able under the
Provisions of
- G. 4. c. 83.

Essex, and Kent, and within the royal palaces of his Majesty, his heirs and successors, and ten miles thereof; and that each of such persons being so sworn, and each of the officers of the said public office, and each of the horse and foot patrol already sworn under the said recited Act, shall, from and after the passing of this Act, have power to act as a constable for the said counties, and also within the said royal palaces, and ten miles thereof, and shall have all such powers and authorities, privileges and advantages, as any constable duly appointed now has or hereafter may have within his constablewick.

III. And be it further enacted, That all powers and authorities, privileges, advantages, exemptions, duties, obligations, and liabilities, by the said recited Act conferred and imposed upon the magistrates of the said public office in *Bow-street*, and upon the clerks constables and others therein employed, and on the horse and foot patrol acting under the orders of the chief magistrate of that office, shall, in case of the removal of that office from the said street to any other street or place, be used and exercised, enjoyed and performed by the magistrates, clerks, officers, patrol, and others respectively, at the office to be substituted for the said public office in *Bow-street*, in as full and ample manner, to all intents and purposes, as if such substituted office had been expressly named in the said recited Act and this Act.

IV. And be it further enacted, That it shall be lawful for two of the justices appointed under the said recited Act to any of the police offices thereby established, upon the application of five of the inhabitants of any street or square, or of the proprietor of any place of public resort, within the limits of the bills of mortality and the parishes therein enumerated, to appoint a competent number of persons, recommended by such inhabitants or such proprietor respectively, and approved of by such justices, to be constables, to keep the peace within such street or square, or such place of public resort, and the avenues leading thereto, for such period of time as such justices shall deem fit and necessary, and to administer an oath to every such constable, duly to execute that office within the limits and for the period of time for which he shall be appointed; and every constable so sworn shall, within the limits and during the period for which he shall serve, have all such powers and authorities, privileges and advantages, as any constable duly appointed hath or shall have within his constablewick, and shall be paid by the inhabitants or proprietor respectively, on whose application he shall be appointed, such wages as shall be deemed reasonable and adequate by the justices by whom he shall be appointed.

V. And be it further enacted, That whensoever any offender convicted of a misdemeanour of a fraudulent nature under the said recited Act, shall be adjudged to imprisonment in the house of correction, it shall be lawful for the convicting justice, if he shall so think fit, to adjudge that such offender shall be there kept to hard labour.

VI. And for preventing the evasion of that provision in the said recited Act, whereby justices of the peace are prohibited, except in certain cases, from taking any fees within the limits of the bills of mortality, and certain parishes in the said Act enumerated; be it further enacted, That every summons which shall, after the passing of this Act, be issued by any justice of the peace of the counties of *Middlesex* and *Surrey* respectively, requiring any person residing within the said limits and parishes, to appear at any place without those limits and parishes, to answer any information or complaint touching any matter arising within the said limits and parishes, shall be utterly void and of none effect; any law custom or usage to the contrary notwithstanding.

VII. And be it further enacted and declared, That every offence committed against the said recited Act, and thereby made punishable under an Act passed in the same session of Parliament, intituled *An Act for consolidating into one Act and amending the Laws relating to idle and disorderly Persons, Rogues, and Vagabonds, incorrigible Rogues, and other Vagrants*, in England, is and shall be punishable and punished under the provisions of an Act passed in the last session of Parliament, intituled

An Act for the Punishment of idle and disorderly Persons and Rogues and Vagabonds, in that Part of Great Britain called England; and that the form of conviction prescribed by the said first-recited Act, shall and may be altered and adapted as the circumstances of the case shall require.

No. XXXV.

6 Geo. IV.

c. 40.

[No. XXXV.] 6 Geo. IV. c. 40.—An Act to enable Justices of the Peace in *England*, in certain Cases, to borrow Money on Mortgage of the Rate of the County, Riding, or Place, for which such Justices shall be then acting.—[10th June 1825.]

WHEREAS by an Act passed in the fourth year of the reign of his present Majesty, intituled *An Act for consolidating and amending the Laws relating to the building, repairing, and regulating of certain Gaols and Houses of Correction in England and Wales*, justices of the peace in quarter sessions assembled have in certain cases authority from time to time to borrow and take up, on mortgage of the rate of the county or riding, or of the division of the county, or of the district, city, town, or place for which such quarter sessions are holden, such sum or sums of money as to the said justices shall appear necessary and expedient for carrying into effect the provisions of the said recited Act, as far as regards the building or rebuilding, repairing or enlarging the gaol, or the house or houses of correction of the said county, riding, division, district, city, town, or place, in sums not less than fifty pounds, nor exceeding one hundred pounds each, and to charge the said rate with the interest of the money so borrowed, and with the payment of such further sum as shall ensure the payment of the whole of the sum so borrowed, within fourteen years from the time of borrowing the same: And whereas by an Act passed in the fifth year of the reign of his present Majesty, intituled *An Act for amending an Act of the last Session of Parliament, relating to the building repairing and enlarging of certain Gaols and Houses of Correction, and for procuring Information as to the State of all other Gaols and Houses of Correction in England and Wales*, justices of the peace in quarter sessions assembled are, for the purpose of facilitating the reduction of the rate of interest, in like manner empowered, in the cases therein mentioned, to borrow on mortgage of the said rate any sum or sums of money, not exceeding in the whole the principal sum of money that may then be outstanding on the securities theretofore granted under the provisions of the said recited Act, and therewith to discharge the whole or any part of the money for which such securities shall have been given: And whereas by an Act passed in the forty-eighth year of the reign of his late Majesty, intituled *An Act for the better Cure and Maintenance of Lunatics, being Paupers or Criminals, in England*, justices of the peace in quarter sessions assembled have authority, in manner set forth in the said Act, to borrow and to take up, on mortgage of the county rate such sums as to them or to the major part of them shall appear to be necessary and expedient for the purpose of carrying into effect the provisions of the said recited Act: And whereas it may be expedient for the purpose of facilitating the reduction of the rate of interest on money borrowed in like manner, but under the provisions of any Act or Acts other than the said recited Acts or either of them, that the justices of the peace should have power to borrow on mortgage of the said rate any sum or sums of money, not exceeding in the whole the principal sum of money that may then be outstanding, on any securities so granted under any such Act or Acts other than the said recited Acts or either of them, and therewith to discharge the whole or any part of the money for which such last-mentioned securities shall have been given: And whereas it may enable justices of the peace, when at any time hereafter they shall treat with any person or persons for the loan of any sum or sums of money to be secured as directed by the said recited Acts or either of them, or by

4 G. 4. c. 64.

5 G. 4. c. 85.

No. XXXV.

6 Geo. IV.

c. 40.

Justices empowered to borrow Money on Mortgage of County Rates, to pay off any Mortgage under recited Acts.

Money not to be applied for any other Purpose.

Rates to be discharged within Fourteen Years.

Justices to give Notice of their Intention to pay off Securities.

Delivery of Notice to be deemed sufficient Service.

any other such Act or Acts as aforesaid, to contract for such loan or loans upon terms more advantageous to the county, riding, division, district, city, town, or place, for which such justices shall be then acting, than at present are likely to be obtained, if such justices have power so as aforesaid to borrow any such sum or sums of money, and therewith to discharge the security or securities held by any person or persons who shall be desirous that such security or securities so held by him her or them, shall be in whole or in part paid off and discharged; be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That whenever it shall appear to the justices of the peace, assembled at any general or quarter sessions to be holden for any county, riding, division, district, city, town, or place, for which any debt or debts shall have been contracted under the provisions of the said recited Acts of the fourth and fifth years of the reign of his present Majesty or of either of them, or under the provisions of the said recited Act of the forty-eighth year of the reign of his late Majesty, or under the provisions of any other Act or Acts, and which debt or debts shall be then remaining due in whole or in part, that advantage or convenience may arise to such county, riding, division, or place, from paying off the same, or any part thereof, and that whenever any person or persons holding any such security or securities shall wish and desire that the security or securities so held by him her or them, shall be paid off and discharged, it shall be lawful for the justices so assembled, if they shall think fit, to borrow on mortgage of the rate of the county, riding, division, district, city, town, or place, for which such general or quarter sessions shall be holden, by instrument in the form directed by the said first recited Act, any sum or sums of money not exceeding in the whole the principal sum of money that may then be outstanding on the securities thereto granted, and therewith to pay off and discharge the whole or any part of the money for which such securities shall have been given: Provided always, that it shall not be lawful to use or apply any portion of the money to be borrowed under the provisions of this Act, for any purpose other than the payment and discharge of the whole or part of the principal sum then due, on the securities granted as aforesaid: Provided also, that the money to be borrowed under the provisions of this Act shall be borrowed on such terms and under such conditions as shall in no way interfere with or prevent the full payment and discharge of the money borrowed under the provisions of this Act, or of any other Act or Acts, within fourteen years from the time or times that the security or securities so to be paid off and discharged with the money borrowed under the provisions of this Act shall have been so granted as aforesaid; and so that the rate to be raised in such county, riding, division, district, city, town, or place, shall, within fourteen years from the time when the money was originally borrowed, be discharged and released from all securities which shall have been given for the due discharge of such debt.

II. And be it further enacted, That whenever the justices assembled as aforesaid shall have determined that the whole or any part of the principal sum so outstanding as aforesaid shall be paid off and discharged, they are hereby required to direct that the clerk of the peace shall give notice of such their determination to the person or persons holding such security or securities, as the said justices shall have so determined to be paid off and discharged; and whenever any person or persons shall wish and desire that the security or securities so held by him her or them shall be paid off and discharged, such person or persons shall give to the justices so assembled as aforesaid notice in writing of such his her or their wish and desire: Provided always, that no such security or securities shall be so paid off and discharged until after the expiration of six months from the day on which such notice or notices shall have been so given.

III. And be it further enacted, That the delivery of such notice of the clerk of the peace at the house or houses, or at the usual place or places of residence of the person or persons holding such security or securities as

shall have been determined as aforesaid to be paid off and discharged, shall be taken and deemed to be a good and sufficient service of such notice.

IV. And be it further enacted, That all interest payable on any security or securities ordered to be paid off and discharged, shall cease and determine on the day specified in such notice or notices, as being the day on which such security or securities is or are to be paid off and discharged; provided always, that every person upon whom such notice of the clerk of the peace shall have been so served as aforesaid, and that every person whose security or securities shall in conformity to his or her wish and desire, notified as aforesaid, have been ordered to be paid off and discharged, shall be entitled, upon application made at any time after the expiration of the said six months to the treasurer of the county, by himself or herself, or by his or her attorney, to receive the principal sum or sums for which such security or securities shall have been granted, together with all interest due thereon.

V. And whereas inconvenience and unnecessary expence is occasioned by justices of the peace not being authorized to borrow and take up, on the mortgage of the rate of the county or riding, or of any division of the county, or of the district, city, town, or place, such sum or sums of money as may be required for carrying into effect the provisions of the said recited Acts of the fourth and fifth years of the reign of his present Majesty, in sums exceeding one hundred pounds each; be it enacted, That so much of the said recited Acts as directs that such sum or sums of money so to be borrowed and taken up shall be borrowed and taken up in sums not exceeding one hundred pounds each, be and the same is hereby repealed.

No.
XXXVI.
10 Geo. IV.
c. 44.

Interest to cease
on the Day
specified in such
Notice,

So much of re-
cited Act as
directs that the
Money borrow-
ed shall be
taken up in
Sums not ex-
ceeding 100l.
each, shall be
repealed.

[No. XXXVI.] 10 Geo. IV. c. 44.—An Act for improving the Police in and near the Metropolis.—[19th June 1829.]

WHEREAS offences against property have of late increased in and near the metropolis; and the local establishments of nightly watch and nightly police have been found inadequate to the prevention and detection of crime, by reason of the frequent unfitness of the individuals employed, the insufficiency of their number, the limited sphere of their authority, and their want of connection and co-operation with each other: And whereas it is expedient to substitute a new and more efficient system of police in lieu of such establishments of nightly watch and nightly police, within the limits herein-after mentioned, and to constitute an office of police, which, acting under the immediate authority of one of his Majesty's principal secretaries of state, shall direct and control the whole of such new system of police within those limits: Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That it shall be lawful for his Majesty to cause a new police office to be established in the city of *Westminster*, and by warrant under his sign manual to appoint two fit persons as justices of the peace of the counties of *Middlesex*, *Surrey*, *Hertford*, *Essex*, and *Kent*, and of all liberties therein, to execute the duties of a justice of the peace at the said office, and in all parts of those several counties, and the liberties therein, together with such other duties as shall be herein-after specified, or as shall be from time to time directed by one of his Majesty's principal secretaries of state, for the more efficient administration of the police within the limits herein-after mentioned; and his Majesty may remove either of the said justices, if he shall see occasion so to do, and may, upon any vacancy in the said office by death removal or otherwise, appoint another fit person as a justice of the peace of the counties of *Middlesex*, *Surrey*, *Hertford*, *Essex*, and *Kent*, and of all liberties therein, to execute the duties aforesaid, in lieu of the person making such vacancy; and it shall be lawful for his Majesty to appoint any person to be a justice of the peace by virtue of this Act, and for such person, during the continuance of his appointment, to execute the

His Majesty
may establish a
new Police
Office for the
Metropolis and
the surrounding
District, and
may appoint
Two Persons as
Justices, to con-
duct the Busi-
ness of the
Office, under
the Directions
of a Secretary
of State.
The Justices
need not have
any Qualifica-
tion of Estate.

No.
XXXVI.
10 Geo. IV.
c. 44.

Proviso.

Oath to be
taken by the
Justices.

Salary of the
Justices.

Westminster,
and Parts of
Middlesex,
Surrey, and
Kent, to be
formed into
One District,
to be called
"The Metro-
politan Police
District."

A Police Force
for the whole
District to be
appointed.

The Justices
subject to the
Approval of a
Secretary of
State, may
make Regula-
tions for the
Management of
the Police
Force.

Police Men
may be sus-
pended or dis-
missed by the
Justices.

Penalty on Pub-
licans harbour-
ing Police Men during the Hours of Duty.

duties of a justice of the peace for the several counties of *Middlesex, Surrey, Hertford, Essex, and Kent*, and for all liberties therein, although he may not have any such qualification by estate as is required by law in the case of any other person being a justice of the peace for any county: Provided always, that no such person shall act as a justice of the peace at any court of general or quarter sessions, nor in any matter out of sessions, except for the preservation of the peace, the prevention of crimes, the detection and committal of offenders, and in carrying into execution the purposes of this Act.

II. And be it enacted, That every person to be appointed a justice of the peace by virtue of this Act shall, before he shall begin to execute the duties of his office, take the following oath before some justice or baron of one of his Majesty's Courts of Record at *Westminster*; (that is to say,)

"I *A. B.* do swear, That I will faithfully impartially and honestly, according to the best of my skill and knowledge, execute all the powers and duties of a justice of the peace, under and by virtue of an Act passed in the tenth year of the reign of King *George the Fourth*, intituled *An Act for improving the Police in and near the Metropolis.*"

III. And be it enacted, That it shall be lawful for his Majesty to direct that an annual salary, not exceeding the sum of eight hundred pounds, shall be paid out of the consolidated fund of the United Kingdom of *Great Britain and Ireland*, to each of the justices to be appointed under this Act, and that the same shall be payable quarterly.

IV. And be it enacted, That the whole of the city and liberties of *Westminster*, and such of the parishes, townships, precincts, and places in the counties of *Middlesex Surrey and Kent*, as are enumerated in the schedule to this Act, shall be constituted, for the purposes of this Act, into one district, to be called "The Metropolitan Police District;" and a sufficient number of fit and able men shall from time to time, by the directions of one of his Majesty's principal secretaries of state, be appointed as a police force for the whole of such district, who shall be sworn in by one of the said justices to act as constables for preserving the peace, and preventing robberies and other felonies, and apprehending offenders against the peace; and the men so sworn shall, not only within the said district, but also within the counties of *Middlesex, Surrey, Hertford, Essex, and Kent*, and within all liberties therein, have all such powers, authorities, privileges, and advantages, and be liable to all such duties and responsibilities, as any constable duly appointed now has or hereafter may have within his constableness by virtue of the common law of this realm, or of any statutes made or to be made, and shall obey all such lawful commands as they may from time to time receive from any of the said justices for conducting themselves in the execution of their office.

V. And be it enacted, That the said justices may from time to time, subject to the approbation of one of his Majesty's principal secretaries of state, frame such orders and regulations as they shall deem expedient, relative to the general government of the men to be appointed members of the police force under this Act; the places of their residence; the classification rank and particular service of the several members; their distribution and inspection; the description of arms accoutrements and other necessities to be furnished to them; and which of them shall be provided with horses for the performance of their duty; and all such other orders and regulations, relative to the said police force, as the said justices shall from time to time deem expedient for preventing neglect or abuse, and for rendering such force efficient in the discharge of all its duties; and the said justices may at any time suspend or dismiss from his employment any man belonging to the said police force whom they shall think remiss or negligent in the discharge of his duty, or otherwise unfit for the same; and when any man shall be so dismissed, or cease to belong to the said police force, all powers vested in him as a constable by virtue of this Act shall immediately cease and determine.

VI. And be it enacted, That if any victualler or keeper of any house, shop, room, or other place for the sale of any liquors, whether spirituous

or otherwise, shall knowingly harbour or entertain any man belonging to the said police force, or permit such man to abide or remain in his house, shop, room, or other place during any part of the time appointed for his being on duty, every such victualler or keeper as aforesaid, being convicted thereof before any two justices of the peace, shall for every such offence forfeit and pay such sum, not exceeding five pounds, as they shall think meet.

VII. And be it enacted, That it shall be lawful for any man belonging to the said police force, during the time of his being on duty, to apprehend all loose idle and disorderly persons whom he shall find disturbing the public peace, or whom he shall have just cause to suspect of any evil designs, and all persons whom he shall find between sunset and the hour of eight in the forenoon lying in any highway yard or other place, or loitering therein, and not giving a satisfactory account of themselves, and to deliver any person so apprehended into the custody of the constable appointed under this Act, who shall be in attendance at the nearest watch-house, in order that such person may be secured until he can be brought before a justice of the peace, to be dealt with according to law, or may give bail for his appearance before a justice of the peace, if the constable shall deem it prudent to take bail, in the manner herein-after mentioned.

VIII. And be it enacted, That if any person shall assault or resist any person belonging to the said police force in the execution of his duty, or shall aid or incite any person so to assault or resist, every such offender, being convicted thereof before two justices of the peace, shall for every such offence forfeit and pay such sum, not exceeding five pounds, as the said justices shall think meet.

IX. And be it enacted, That where any person charged with any petty misdemeanor shall be brought without the warrant of a justice of the peace, into the custody of any constable appointed under this Act, during his attendance in the night-time at any watch-house within the metropolitan police district, it shall be lawful for such constable, if he shall deem it prudent, to take bail by recognizance, without any fee or reward, from such person, conditioned that such person shall appear for examination before a justice of the peace, at some place to be specified in the recognizance, at the hour of ten in the forenoon next after such recognizance shall be taken, unless that hour shall fall on a *Sunday* or on *Christmas Day* or *Good Friday*, and in that case at the like hour on the succeeding day; and every recognizance so taken shall be of equal obligation on the parties entering into the same, and liable to the same proceedings for the estreating thereof, as if the same had been taken before a justice of the peace; and the constable shall enter, in a book to be kept for that purpose in every watch-house, the names residence and occupation of the party and his surety or sureties, if any, entering into such recognizance, together with the condition thereof, and the sums respectively acknowledged, and shall lay the same before such justice as shall be present at the time and place when and where the party is required to appear; and if the party does not appear at the time and place required, or within one hour after, the justice shall cause a record of the recognizance to be drawn up, to be signed by the constable, and shall return the same to the next general or quarter sessions of the peace, with a certificate at the back thereof, signed by such justice, that the party has not complied with the obligation therein contained; and the clerk of the peace shall make the like estreats and schedules of every such recognizance as of recognizances forfeited in the sessions of the peace; and if the party not appearing shall apply, by any person on his behalf, to postpone the hearing of the charge against him, and the justice shall think fit to consent thereto, the justice shall be at liberty to enlarge the recognizance to such further time as he shall appoint; and when the matter shall be heard and determined, either by the dismissal of the complaint, or by binding the party over to answer the matter thereof at the sessions, or otherwise, the recognizance for the appearance of the party before a justice shall be discharged without fee or reward.

No.
XXXVI.
10 Geo. IV.
c. 44.

Power of Police.

Assaults on Police Men.

Constables attending at the Watch-houses in the Night may take Bail by Recognizance from Persons brought before them for Petty Misdemeanors; such Recognizance to be conditioned for the Appearance of the Parties before a Magistrate.

In default of Appearance, Recognizance to be forfeited.

Time of Hearing may be postponed.

No.

XXXVI.

10 Geo. IV.

c. 44.

His Majesty may appoint a Person to be the Receiver of all Monies applicable to the Purposes of this Act, who shall give Security.

The Money to be placed in the Bank of England, and drawn out by the Receiver.

Receiver's Drafts to be countersigned.

Receiver's Accounts to be audited.

Salary of Receiver.
Salaries and Wages of Police Men to be regulated by the Secretary of State.

Rewards for Activity, and Superannuation Allowances.

X. And be it enacted, That it shall be lawful for his Majesty to appoint a proper person to receive all sums of money applicable to the purposes of this Act, who shall be called "The Receiver for the Metropolitan Police District;" and his Majesty may remove any such receiver, if he shall see occasion so to do, and may upon any vacancy in that office, by death removal or otherwise, appoint another person to be such receiver; and the receiver for the time being shall give security to his Majesty, in a bond, with two sureties, in such sum as the commissioners of his Majesty's treasury of the United Kingdom of *Great Britain and Ireland* shall direct, such bond to be conditioned for the faithful performance of his duty by such receiver, and for the due application of all monies paid to him under this Act; and the receiver for the time being shall receive all sums of money applicable to the purposes of this Act, and shall keep an exact and particular account thereof, and shall immediately pay all monies bills and notes by him received under this Act into the hands of the governor and company of the Bank of *England*; and the same shall be placed to an account in the books of the said governor and company, which shall be entitled "The Account of the Public Monies of the Receiver for the Metropolitan Police District," inserting the name of the receiver for the time being; and the said receiver shall draw out of the bank from time to time such sums of money as may be necessary for the payment of the salaries wages and allowances to be paid as herein-after mentioned to the persons belonging to the police force appointed under this Act, and also for the payment of all other charges and expences in carrying this Act into execution; and every draft or order for money on the Bank of *England* drawn by the receiver shall be countersigned by one of the justices appointed under this Act; and all drafts and orders so drawn and countersigned, but not otherwise, shall be a sufficient authority to the bank to pay the amount thereof to the persons named in them, or to the bearers of them.

XI. And be it enacted, That the receiver shall account for the due application of all monies so to be drawn by him out of the Bank of *England*, and shall, once in every six months, and oftener, if required by one of his Majesty's principal secretaries of state, make out and sign a full and particular account of all monies which shall have been received by him under this Act, and how much thereof hath been paid by him, and for what purposes, together with proper vouchers for the receipts and payments; and such account shall be delivered, for the purpose of being examined and audited, either to the commissioners for auditing the public accounts of this kingdom, or to any other person or persons whom such principal secretary of state may from time to time direct; and the receiver, if directed to account before the said commissioners, shall be subject to the same regulations and penalties in that respect as any public accountant.

XII. And be it enacted, That the receiver, out of the monies so received by him, shall be allowed a yearly salary not exceeding seven hundred pounds, to be payable quarterly; and the receiver, out of the same monies, shall from time to time pay to the persons belonging to the police force appointed under this Act, such salaries wages and allowances, and at such periods, as one of his Majesty's principal secretaries of state shall direct, and also any extraordinary expences which they shall appear to have necessarily incurred in apprehending offenders and executing the orders of either of the justices appointed under this Act, such expences being first examined and approved of by one of the said justices; and the receiver shall likewise pay any further sums which such principal secretary of state shall direct to be paid to any of the persons belonging to the said police force, as a reward for extraordinary diligence or exertion, or as a compensation for wounds or severe injuries received in the performance of their duty, or as an allowance to such of them as shall be disabled by bodily injury received, or shall be worn out by length of service; and he shall also pay all other charges and expences which such principal secretary of state shall direct to be paid for carrying this Act into execution.

XIII. And be it enacted, That upon the death resignation or removal of any receiver appointed under this Act, the balance of cash for which he shall at that time have credit on his account, as receiver, with the governor and company of the Bank of *England*, shall, as soon as a successor shall be appointed to the office of receiver, actually vest in such successor, and shall be immediately transferred to the account of such successor, to be applied for the purposes of this Act; and the receiver for the time being is hereby required to issue his drafts or orders, countersigned as aforesaid, for all unsatisfied charges and demands payable out of the monies in the bank, although the same shall have accrued in the time of any former receiver.

XIV. And be it enacted, That if any person having resigned or having been removed from the office of receiver shall neglect, within twenty-one days after notice for such purpose, to account for and pay to any succeeding receiver all such sums of money as shall remain in his hands applicable to the purposes of this Act, it shall be lawful for the receiver for the time being, in his own proper name only, or by his name and description of office, to sue for and recover the same from such person, with double costs of suit, in any of his Majesty's Courts of Record at *Westminster*, by action of debt; in which action it shall be sufficient for such receiver to declare as for money had and received to the use of such receiver for the purposes of this Act; and the defendant in the action may, at the discretion of any judge of such court, be held to special bail in such competent sum as the judge shall order; and the court in which the action shall be brought may at the instance of either of the parties, refer the account in dispute in a summary manner to be audited by any officer of the court or other fit person, who may examine both plaintiff and defendant upon oath (which oath the said referee shall have power to administer), and upon the report of such referee, unless either of the parties shall show good cause to the contrary, the court may make a rule, either for the payment of such sum as upon the report shall appear to be due, or for staying the proceedings in the action, and upon such terms and conditions as to the court shall appear reasonable; or the court may order judgment to be entered up by confession, for such sum as upon the report shall appear to be due.

XV. And be it enacted, That in case of the death of any person during the time that he shall be holding the office of receiver, or after he shall have resigned or been removed from such office, the receiver for the time being may, in his own proper name only, or by his name and description of office, sue for and recover from the executors or administrators of such person deceased all such sums of money as shall have been remaining in his hands applicable to the purposes of this Act, by an action of debt in any of his Majesty's Courts of Record at *Westminster*; in which action it shall be sufficient for the plaintiff to declare that the deceased was indebted to the plaintiff for money had and received to his use for the purposes of this Act, or that the deceased died possessed of money had and received for the purposes of this Act, whereby an action hath accrued to the plaintiff to demand and have the same from such executors or administrators; and the like action may be brought against any executors or administrators of executors or administrators; and in all such actions the defendant or defendants may plead in like manner, and avail themselves of the like matters in defence, as in any action founded upon simple contracts of the original testator or intestate; and the court may refer the account in dispute to be audited by any officer or person, and may proceed upon the report of such referee in like manner as is herein-before mentioned; and in all actions to be brought, as well as in all proceedings whatsoever to be instituted or carried on, by any receiver by virtue of this Act, proof of his acting in the execution of the office of receiver shall be sufficient evidence of his holding such office, unless the contrary shall be shown in evidence by the defendants in such actions, or the parties against whom such proceedings shall be instituted or carried on.

No.

XXXVI.

10 Geo. IV.

c. 44.

Upon the Death or Removal of Receiver, the Balance of Cash to his Successor.

Upon the Removal of the Receiver, his Successor may sue for any Balance remaining in his Hands.

Mode of proceeding.

Special Bail.

Court may refer the Accounts to an Officer or Arbitrator.

Mode of proceeding against the Representatives of a deceased Receiver.

Proof of the Receiver's official Character.

No.
XXXVI.
10 Geo. IV.
c. 44.

The Receiver shall contract for any Land or Buildings that may be required.

The Property to be vested in him.

Corporations and others empowered to sell Land to the Receiver.

In case of Disagreement, &c., the Value shall be assessed by a Jury.

XVI. And be it enacted, That the receiver for the time being shall make all such contracts and disbursements as shall be necessary for purchasing or renting any land or buildings, or for erecting, fitting up, furnishing, or repairing any buildings, for the purposes of this Act, in such manner as one of his Majesty's principal secretaries of state shall direct; and of all lands and buildings so to be purchased or rented, and of the fixtures and furniture thereof, and of all goods and chattels whatsoever to be from time to time held or purchased for the purposes of this Act, the property acquired therein shall be vested in the receiver for the time being, in whom also shall be vested the property of all watch-houses, watchboxes, arms, accoutrements, and other necessities to be given up as herein-after mentioned; and the receiver for the time being may, by the directions of such principal secretary of state, sell assign or dispose of the whole or any part of any such property as aforesaid, and shall execute all such lawful matters for carrying this Act into execution as such principal secretary of state shall from time to time direct.

XVII. And be it enacted, That it shall be lawful for all bodies corporate, and also for all commissioners vestrymen or trustees for public purposes, and for tenants for life or in tail, and for the husbands, guardians, trustees, committees, or attorneys of such of the proprietors or persons interested in any lands or buildings required for the purposes of this Act as shall by reason of any legal disability or of absence beyond the seas be incapable of acting for themselves, to contract and agree with the receiver for the time being, either for the absolute sale of such lands or buildings, or for a lease thereof for such period as the receiver shall require, and to convey demise or grant the same to the receiver in trust for the purposes of this Act; and all such contracts, sales, conveyances, leases, and grants shall be valid and effectual in law to all intents and purposes; and in case any body corporate, commissioners, vestrymen, trustees, or other persons hereby authorized to contract on behalf of themselves or others as aforesaid, shall neglect or refuse to agree with, or by reason of disability or absence shall be prevented from agreeing with, the receiver, for the sale or lease of any land or buildings required by him, or in case the proprietors or persons interested therein cannot be found or known, or shall not produce and evince a clear title to the land or buildings so to be purchased or rented, or to the interest they shall claim therein, to the satisfaction of the receiver, in every such case all the provisions contained in an Act passed in the fifth year of his present Majesty's reign, intituled *An Act for more effectually paving, lighting, watching, cleansing, and regulating the Regent's Park, together with the new street from the Regent's Park to Pall Mall, and the new Streets and Improvement in the Neighbourhood of Parliament-street and Privy Gardens, and for maintaining a convenient Sewage for the same*, with regard to the valuation of estates and interests by a jury, the conclusive effect of the verdict of the jury, and all matters preparatory to, concomitant with, and consequent or contingent upon the valuation by a jury, shall, so far as the same are or can be applicable, be applied and extended to the valuation of any land or buildings required for the purposes of this Act, in as full and ample a manner to all intents and purposes as if those provisions had been repeated and expressly re-enacted in this Act; and all such matters as by those provisions of the said Act are authorized or required to be done by the sheriff of *Middlesex* and by a jury of *Middlesex*, or by the high bailiff of *Westminster* or his deputy and by a jury of *Westminster*, shall under this Act be done by the sheriff and a jury of *Middlesex*, if the premises to be valued are situate in *Middlesex*, and by the high bailiff or his deputy and a jury of *Westminster*, if the premises are situate in *Westminster*; and all such matters as by those provisions of the said Act are authorized or required to be done by the sheriff and a jury of the county of *Middlesex*, shall, if the premises to be valued are situate in any other county, be done under this Act by the sheriff of such other county and by a jury qualified to try causes at *nisi prius* in such other county; and all such matters as by those provisions of the said Act are authorized or required to be done by the commissioners therein

mentioned shall, under this Act, be done by the receiver for the time being.

XVIII. And be it enacted, That no justice of the peace or receiver appointed by virtue of this Act shall, during the continuance of such appointment, be capable of being elected or of sitting as a member of the House of Commons; and no justice receiver or person belonging to the police force appointed by virtue of this Act shall, during the time that he shall continue in any such office, or within six calendar months after he shall have quitted the same, be capable of giving his vote for the election of a member to serve in Parliament for the counties of *Middlesex, Surrey, Hertford, Essex, or Kent*, or for any city or borough within the metropolitan police district, nor shall, by word, message, writing, or in any other manner, endeavour to persuade any elector to give, or dissuade any elector from giving, his vote for the choice of any person to be a member to serve in Parliament for any such county city or borough; and if any such justice receiver or person belonging to the police force shall offend therein, he shall forfeit the sum of one hundred pounds, to be recovered, by any person who will sue for the same, by action of debt, to be commenced within six calendar months after the commission of the offence; and one moiety of the sum so recovered shall be paid to the informer, and the other moiety thereof to the receiver appointed under this Act, to be by him added to and applied as part of the funds for the purposes of the police under this Act: Provided always, that nothing in this enactment contained shall subject any such justice receiver or person belonging to the police force, to any penalty for any Act done by him at or concerning any of the said elections in the discharge of his official duty.

XIX. And whereas some time must elapse before a new police force can be appointed throughout the whole of the metropolitan police district; be it therefore enacted, That the watchmen and others of the night police already appointed in any parish, township, precinct, or place within the limits of the said district, may, notwithstanding the passing of this Act, continue to act in their respective appointments, and shall be subject to the same authorities as heretofore, until it shall be notified by the justices appointed under this Act, that a new police will be ready to undertake the charge of any such parish, township, precinct, or place, on some day to be specified in the notice of the said justices; which notice shall be fixed on the door of the church or chapel, or some other conspicuous part of the parish, township, precinct, or place, on two *Sundays* previous to the day named for the same to take effect; and upon the day so named the night watch and other night police appointed within any such parish, township, precinct, or place, previously to or independently of this Act, shall be discontinued; and all powers and authorities for assessing and levying any rate in any such parish, township, precinct, or place, the whole or any part of which rate shall be applicable to the payment of the night watch or night police, or any expences incident thereto, shall, so far as such powers and authorities relate to any whole rate so applicable, or to that part of any rate which shall be so applicable, cease and determine; and all watch-houses and watchboxes in any such parish, township, precinct, or place, and all arms accoutrements and other necessities provided at the public expence for the night watch and night police therein, shall be given up to such persons as shall be named by the said justices, for the use and accommodation of the police to be appointed under this Act; and in case any person having the charge controul or possession of any watch-house, watchbox, arms, accoutrements, or necessities as aforesaid, shall neglect or refuse to give up the same as hereinbefore required, every such offender, being convicted thereof before any two justices of the peace, shall for every such offence forfeit and pay, over and above the value of the property not given up, such sum, not exceeding five pounds, as the said justices shall think meet; and where there shall be any building in any such parish, township, precinct, or place as aforesaid, a part only of which building shall have been heretofore used as a watch-house, such part shall be given up every day from the hour of four in the afternoon until the hour of nine in the forenoon,

No.
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10 Geo. IV.
c. 44.

No Justice, &c.,
under this Act
to sit in Parlia-
ment.

No Justice,
Receiver, Po-
lice Man, &c.,
appointed under
this Act, to
vote at certain
Elections.

Penalty, 100l.

Proviso.

The present
Watch in each
Parish, &c., in
the Metropolitan
District
shall continue
until it shall be
notified to such
Parish that the
new Police is
appointed, and
then all Watch-
boxes, Arms,
&c., shall be
given up to the
new Police, and
the present
Watch Rate
shall cease.

Penalty for not
giving up the
Watchboxes,
&c.

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c. 44.

Proviso for
Watch Rates
already im-
posed.

This Act not to
affect the Rates
for paving,
lighting, &c.

Provision for
outstanding
Debts.

Power to set
up Watchboxes.

The Overseers
in every Parish,
&c., in the
Metropolitan
District shall be
ordered to levy
a Police Rate
upon all Per-
sons liable to
the Poor Rate.

Not to exceed
8d. in the
Pound in any
one Year, ac-
cording to the
Valuation for
County Rate.

Who to be
deemed Over-
seers within
his Act.

for the use and accommodation of the police force to be appointed under this Act; and if any person having the charge controul or possession of any such building shall neglect or refuse to give up such part thereof for the purposes aforesaid, or to permit free access thereto or egress therefrom, during any portion of the time above prescribed, every such offender, being convicted thereof before any two justices of the peace, shall for every such offence forfeit and pay such sum, not exceeding five pounds, as the said justices shall think meet.

XX. Provided always, and be it enacted, That any rate for defraying the expences of the night watch or night police in any parish, township, precinct, or place, made previous to the day on which the police force to be appointed under this Act shall undertake the charge thereof, shall be levied and collected in the same manner as if this Act had not been passed: Provided also, that nothing herein contained shall be deemed to affect or alter any powers or authorities for assessing and levying any rate in any such parish, township, precinct, or place, so far as such rate may relate to paving, lighting, cleansing, or any other object, except the night watch night police or any expences incident thereto.

XXI. And whereas there are certain parishes, townships, precincts, and places in the metropolitan police district, in which monies have been borrowed or advanced, and debts contracted for the building of watch-houses, and for various expences connected with the night watch and night police therein, and such monies and debts remain unpaid, and it is expedient that the same should be discharged; be it therefore enacted, That all such monies and debts in any parish, township, precinct, or place, of which the police to be appointed under this Act shall undertake the charge, shall, notwithstanding any thing herein-before contained, be chargeable upon the rates out of which such monies or debts have been heretofore in part paid, or would have been payable if this Act had not been passed; and such rates shall be from time to time assessed and levied for the payment of such monies and debts until the same shall be entirely discharged and satisfied.

XXII. And be it enacted, That the justices appointed under this Act, subject to the approbation of one of his Majesty's principal secretaries of state, may order such a number of watchboxes as they shall from time to time think fit to be placed or fixed in such parts of the highways in any of the parishes, townships, precincts, and places within the metropolitan police district, as the said justices shall deem most convenient.

XXIII. And be it enacted, That as soon as the police to be appointed under this Act shall take charge of any parish, township, precinct, or place, whether parochial or extra-parochial, within the metropolitan police district, it shall be lawful for the justices appointed under this Act, forthwith, and so from time to time, subject to the approbation of one of his Majesty's principal secretaries of state, to issue a warrant under their hands to the overseers of the poor of every such parish, township, precinct, or place; by which warrant they shall command the said overseers, out of the money collected for the relief of the poor in such parish, township, precinct, or place, to pay the amount mentioned in the warrant for the purposes of the police under this Act, or to levy such amount as a part of the rate for the relief of the poor in such parish, township, precinct, or place, and that the overseers shall pay over the amount mentioned in the warrant, to the receiver to be appointed under this Act, within forty days from the delivery of such warrant to any one of the overseers: Provided always, that the sum to be paid for the purposes of the police under this Act shall not exceed in the whole in any one year the rate of eight-pence in the pound on the full and fair annual value of all property rateable for the relief of the poor within such parish, township, precinct, or place, such full and fair annual value to be computed according to the last valuation for the time being acted upon in assessing the county rate; and that the warrant shall specify the rate in the pound at which the sum mentioned therein shall be computed.

XXIV. And be it enacted, That where any persons other than the overseers of the poor shall, by virtue of any office or appointment, be

authorized and required to make and collect or cause to be collected the rate for the relief of the poor in any parish, township, precinct, or place within the metropolitan police district, such persons, by whatsoever title they may be called, shall be deemed to be overseers of the poor within the meaning of this Act, and to be included under and denoted by the words "overseers of the poor," for all the purposes of this Act, as fully as if they were commonly called or known by the title of overseers of the poor.

XXV. And be it enacted, That the overseers of the poor of every parish, township, precinct, or place within the metropolitan police district, to whom any such warrant as aforesaid shall be issued, shall pay the amount mentioned in the warrant out of any money in their hands collected for the relief of the poor; and if there be no such money in their hands, or an insufficient sum, they shall levy the amount required as a part of the rate for the relief of the poor, and shall for that purpose proceed in the same manner, and have the same powers remedies and privileges as for levying money for the relief of the poor; and such overseers shall pay to the receiver the amount mentioned in the warrant within the time specified for that purpose, and at the time of making any payment to the receiver shall deliver to him a note in writing signed by them, specifying the amount so paid, which note shall be kept by the receiver as a voucher for his receipt of that particular amount; and the receipt of the receiver, specifying the amount paid to him by the overseers, shall be a sufficient discharge to the overseers for such amount, and shall be allowed as such in passing their accounts with their respective parishes, townships, precincts, or places.

XXVI. And be it enacted, That in case the amount ordered by such warrant as aforesaid to be paid by the overseers in any parish, township, precinct, or place in the metropolitan police district, shall not be paid to the receiver within the time specified for that purpose in the warrant, the justices appointed under this Act, upon complaint thereof made to them by the receiver, may issue their warrant for levying the amount, or so much thereof as may be in arrear, by distress and sale of the goods of all or any of the said overseers; and in case the goods of all the overseers shall not be sufficient to pay the same, the arrears thereof shall be added to the amount of the next levy which shall be directed to be made in such parish, township, precinct, or place for the purposes of the police under this Act, and shall be collected by the like methods; and the said justices, in case of any default or neglect of any overseer or overseers, or in any other case in which one of his Majesty's principal secretaries of state shall so direct, may appoint two or more persons to act as overseers of the poor within any parish, township, precinct, or place in the metropolitan police district, for levying the money for the purposes of the police under this Act; and the persons so appointed shall proceed in the same manner, and shall have the same powers remedies and privileges, and shall be subject to the same regulations and penalties, with reference to the levying of such money, as if they had been appointed overseers of the poor by virtue of any law or laws now in force.

XXVII. And be it enacted, That where any messuages, lands, tenements, or hereditaments within the metropolitan police district shall be occupied by any ambassador agent or other public minister of any foreign prince or state, or by the servant of any such ambassador agent or minister, or by any other person not liable by law to the payment of the poor's rate, all such money as would by virtue of this Act have been payable for the purposes of the police by the occupier of such messuages, lands, tenements, or hereditaments, if such occupier had been rateable to the relief of the poor, shall in such case be paid by and recoverable from the landlord or owner thereof, who shall for this purpose be deemed the occupier thereof, and shall be liable to all such proceedings for non-payment of such money as any person is by law liable to for non-payment of poor rate.

XXVIII. And be it enacted, That any justice appointed under this Act, or any person having an order for that purpose under the hand of any

Overseers shall collect the Police Rate in the same manner as the Poor Rate.

Receipt of the Receiver shall be a sufficient Discharge.

Overseers, on Non-payment of the Police Rate, shall be distrained upon;

and in default of sufficient Distress, the Arrears may be re-levied on the Parish. In case of Default, &c., occasional Overseers may be appointed for levying the Police Rate.

In Property occupied by Ambassadors, the Landlord shall pay the Police Rate.

Right of inspecting C Rates, &c

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10 Geo. IV.
c. 44.

such justice, may inspect any county rate made or to be made for any county, any part of which shall be situate within the metropolitan police district, and may also inspect any returns concerning all or any of the parishes, townships, precincts, and places, whether parochial or extra-parochial in the said district, delivered or to be delivered in pursuance of any of the Acts relating to county rates, and may take copies or extracts from any such rates or returns without payment of any fee or reward; and if any person having the custody of any such rate or return shall wilfully neglect or refuse to permit any such justice or other person to inspect the same, or to take copies or extracts from the same, within two days after such order shall have been produced and shown to him, or a copy thereof left at his usual place of abode, he shall, on conviction thereof before any two justices of the peace, forfeit and pay for every such offence such sum, not exceeding ten pounds, as they shall think meet.

Accounts to be
laid before Par-
liament annu-
ally.

XXIX. And be it enacted, That an account of all monies received and expended for the purposes of this Act, made up to the thirty-first day of *December* in each year, shall annually be laid before both Houses of Parliament within thirty days thereafter, if Parliament be then sitting, or within thirty days after the first meeting of Parliament subsequent to the thirty-first of *December*, and such account shall specify the total sum charged upon and received from every parish, township, precinct, and place for the purposes of this Act, the rate in the pound at which such sum shall have been computed, and the total annual value of the entire property in every such parish, township, precinct, and place, as such total annual value shall be stated in the last valuation for the time being acted upon in assessing the county rate; and such account shall also specify the different heads of expenditure for the purposes of the police, and the amount actually expended under each.

Provision for
assessing and
levying Police
Rate in those
Places within
the Metropoli-
tan District
where there is
no Poor Rate.

XXX. And whereas it is expedient to provide for those precincts and places in the metropolitan police district in which no rate is made for the relief of the poor, or in which property may be deemed not to be rateable thereto; be it therefore enacted, That the respective inhabitants and occupiers of all messuages, lands, tenements, and hereditaments in any precinct or place, whether parochial or extra-parochial, in the metropolitan police district, although such messuages, lands, tenements, and hereditaments may not be rated to the relief of the poor, or may be deemed not to be rateable thereto, shall nevertheless be liable to contribute to the expences of the police under this Act, as if the property so inhabited or occupied were rateable and rated to the relief of the poor; and the justices appointed under this Act may from time to time, by warrant under their hands, appoint a proper person to be an assessor, for the purpose of assessing the full and fair annual value of such property, and rating the same to a police rate to be levied under this Act: Provided always, that the sum to be levied as a police rate shall not exceed in the whole in any one year the rate of eight-pence in the pound on the full and fair annual value of such property; and such assessor shall, within forty days after the delivery to him of the warrant of his appointment, make sign and return to the said justices an assessment for the precinct or place named in such warrant; and the assessment shall be fairly written in a book, and shall specify, in different columns, the names of the respective inhabitants or occupiers of all messuages, lands, tenements, and hereditaments, the full and fair annual value of the same, and the amount of police rate charged on the inhabitants or occupiers thereof, and, when the premises shall be unoccupied, the full and fair annual value thereof to let; and every such assessor shall be allowed for his trouble and expences such remuneration as one of his Majesty's principal secretaries of state shall direct, and the same shall be paid out of the amount of the police rate which shall be collected after such assessment.

Mode of mak-
ing the Assess-
ment.

Allowance to
Assessors.

When Assess-
ment is made,
Notice thereof
shall be given,
and all Persons included in the Assessment shall have Liberty to inspect it, &c.

XXXI. And be it enacted, That when such assessment shall have been allowed by the justices appointed under this Act, public notice of such assessment, and of the place where the same may be inspected, shall be given by fixing such notice on the door of the church or chapel, or some

other conspicuous part of the precinct or place to which such assessment shall relate, upon the *Sunday* next or next but one after the same shall have been so allowed; and any person in whose custody such assessment may be shall permit every inhabitant or occupier of property included in such assessment to inspect the same, and to make any extracts therefrom, without payment of any fee or reward; and if such person shall wilfully neglect or refuse to permit any such inhabitant or occupier to inspect such assessment, or to make any extract therefrom, he shall, on conviction thereof before any two justices of the peace, forfeit and pay for every such offence such sum, not exceeding five pounds, as the justices shall think meet.

XXXII. And be it enacted, That the justices appointed under this Act shall from time to time nominate one or more person or persons for levying the amount of police rate charged in every such assessment, who shall proceed in the same manner, and shall have the same powers remedies and privileges and shall be subject to the same regulations and penalties, with reference to the levying of such police rate, as if he or they were an overseer or overseers of the poor in a precinct or place rated to the relief of the poor, and shall pay over the amount of such police rate to the receiver to be appointed under this Act, or in default thereof shall be proceeded against in the same manner as overseers are by this Act to be proceeded against for non-payment.

XXXIII. Provided always, and be it enacted, That if any person, who shall have paid the amount of police rate charged upon him by the assessment made by an assessor appointed under this Act, shall think himself aggrieved by such assessment, on the ground that such assessment includes any property for which he is not rateable under this Act, or that it assesses his rateable property beyond its full and fair annual value, or that any person or persons is or are omitted out of such assessment, or that the property of any person or persons is assessed below its full and fair annual value, the person so aggrieved may appeal to the next court of general or quarter sessions which shall be holden for the county in which the cause of appeal shall have arisen, not less than twenty-one days after public notice of such assessment shall have been given as herein-before mentioned; provided that the person so intending to appeal shall give to the receiver to be appointed under this Act a notice in writing of such appeal, and of the cause and matter thereof, ten clear days at the least before such sessions; and shall also, within three days after his notice of appeal, enter into a recognizance before some justice of the peace of the county, with two sufficient sureties, conditioned to try such appeal at the said sessions, and to abide the order of the court thereupon, and to pay such costs as shall be by the court awarded; and in case such person shall appeal on the ground that any person or persons is or are omitted out of the assessment, or that the property of any person or persons is assessed below its full and fair annual value, the party so appealing shall not only give such notice of appeal to the receiver, and enter into such recognizance as aforesaid, but shall also give a like notice of appeal to the person or persons so interested in the event of such appeal as aforesaid, and shall enter into a like recognizance within the times herein-before respectively mentioned; and the person or persons so interested shall, if he or they shall desire it, be heard upon the appeal; and the justices of the peace at such sessions, or some adjournment thereof, upon due proof of the notice having been given, and of the recognizance having been entered into as aforesaid, shall hear and determine the matter of the appeal in a summary manner, and shall make such order therein, with or without costs to either party, as the said justices shall think proper; and in case the said justices shall think the appellant entitled to relief, they shall order the assessment to be amended in such manner as may be necessary for giving him relief, and shall also order any money paid by him which he was not liable to pay to be returned to him; and in case he shall have appealed on the ground that any person or persons is or are omitted out of the assessment, the said justices may order the name or names of such person or persons to be inserted in the assessment, and to be therein rated

No.

XXXVI.

10 Geo. IV.

c. 44.

Penalty for refusing such Inspection.

Collection of the Police Rate charged in such Assessment.

Appeal against Assessment.

The Assessment may be altered to relieve the Appellant, without altering any other Part of it.

No.
XXXVI.
10 Geo. IV.
c. 44.

at such amount as they shall deem just; and in case the appellant shall have appealed on the ground that the property of any person or persons is assessed below its full and fair annual value, the said justices may order the amount at which such person or persons is or are rated in the assessment to be altered in such manner as they shall deem just; and the proper officer of the court shall in each of the cases aforesaid forthwith amend the assessment accordingly, but the assessment shall not be quashed or altered with respect to any other persons named therein; and the determination of the justices at any such sessions or adjournment shall be final and conclusive.

His Majesty may hereafter, by Order in Council, direct any Parishes within a certain Distance of the Metropolis to be added to the District, and such Parishes when so added shall be subject to all the Provisions of this Act.

XXXIV. And whereas circumstances may occur which may render it expedient that the provisions of this Act should be extended to other places in addition to the places which are enumerated in the schedule to this Act; be it therefore enacted, That it shall be lawful for his Majesty from time to time, by the advice of his privy council, to order that any parishes, townships, precincts, and places, whether parochial or extra-parochial, in the counties of *Middlesex, Surrey, Hertford, Essex, and Kent*, of which any part shall be situate within twelve miles of *Charing Cross* in the city of *Westminster*, shall, after a certain day to be named in such order, be added to and form part of the metropolitan police district, and be placed under the charge of a police to be appointed under this Act; and all provisions herein-before contained with regard to the discontinuance of the night watch and night police appointed previously to or independently of this Act, the cessation of their powers, the cessation of the powers for levying watch rates, the giving up of watch-houses, or parts of buildings used as watch-houses, watchboxes, arms, accoutrements, and other necessities, together with the penalties for neglect or refusal in that behalf, the exception as to any watch rate previously made, and the power to assess and levy rates for debts previously incurred, and also all provisions herein-before contained with regard to the levying of money for the purposes of the police, the levying thereof as a part of the poor's rate, the amount of such levy, the payment thereof to the receiver, the proceedings against overseers for default, the addition of arrears to the next levy, the appointment of persons to act as overseers, and all provisions with regard to the assessment of property, and the rating of the same to a police rate by assessors appointed under this Act, and with regard to the powers and duties of such assessors, as well as all other matters whatsoever previous to, concomitant with or consequent or contingent upon such assessment, shall apply and be enforced in every parish, township, precinct, and place which shall by order in council be added to the metropolitan police district, as fully and effectually as if such parish, township, precinct, or place had been originally included in such district by virtue of this Act.

Misnomers not to affect the Execution of the Act.

XXXV. And be it enacted, That no misnomer or inaccurate description of any parish, township, precinct, or place mentioned in the schedule to this Act, or in any order in council to be made as aforesaid, shall prevent or in anywise affect the execution of this Act, but that this Act and every part thereof shall apply and be enforced in every such parish, township, precinct, and place, as fully and effectually to all intents and purposes as if the same had been correctly named and described in such schedule or order in council, provided that the same be designated therein to common intent and understanding; and united parishes shall for all the purposes of this Act be deemed to be included under and denoted by the word "Parish."

Summons, &c., for Offences punishable on summary Conviction under this Act.

XXXVI. And for the more effectual prosecution of offences punishable upon summary conviction by virtue of this Act, be it enacted, That where any person shall be charged, on the oath of a credible witness, with any such offence before any justice of the peace, the justice may summon the person charged to appear before any two justices of the peace, at a time and place to be named in such summons; and if the person charged shall not appear accordingly, then (upon proof of the due service of the summons, by delivering a copy thereof to such person, or by delivering a copy

to the wife or servant or some inmate of the family of such person, as his usual place of abode,) the justices before whom he ought to have appeared may either proceed to hear and determine the case *ex parte*, or may issue their warrant for apprehending such person, and bringing him before them: Provided always, that the prosecution for any offence punishable upon summary conviction by virtue of this Act shall be commenced within three calendar months after the commission of the offence, and not otherwise.

XXXVII. And be it enacted, That every sum which by any justices of the peace shall be adjudged to be paid for any offence against this Act shall be paid to the receiver appointed under this Act, to be by him added to and applied as part of the funds for the purposes of the police under this Act; and no person, although liable to the payment of money for the maintenance of the police under this Act, shall by reason thereof, or by reason of the application of any penalty to the use of the police funds, be deemed to be an incompetent witness before any court or justice or justices of the peace in any proceeding whatever for any offence against this Act, or in any matter relating to the money to be raised for the maintenance of the police, or in any other matter mentioned in this Act; and no justice of the peace shall be disabled from acting in the execution of this Act by reason of his being liable to the payment of any money for the maintenance of the police under this Act.

XXXVIII. And be it enacted, That the justices of the peace, by whom any person shall be convicted and adjudged to pay any sum of money for any offence against this Act, may adjudge that such person shall pay the same either immediately or within such period as they shall think fit; and that in default of payment at the time appointed, he shall be imprisoned in the common gaol or house of correction for any term not exceeding two calendar months, where the sum to be paid shall not exceed five pounds, and for any term not exceeding four calendar months, where the sum shall not exceed ten pounds, and for any term not exceeding six calendar months in any other case; the imprisonment to cease in each of the cases aforesaid upon payment of the sum due.

XXXIX. And be it enacted, That the justices before whom any person shall be summarily convicted of any offence against this Act may cause the conviction to be drawn up in the following form of words, or in any other form of words to the same effect, as the case may require; (that is to say,)

'to wit. } **B**E it remembered, That on the _____ day of _____ in the year of our Lord _____ at _____ in the county of _____ *A. B.* is convicted before us, [naming the justices,] two of his Majesty's justices of the peace for the said county, for that he the said *A. B.* did [specify the offence, and the time and place when and where the same was committed, as the case may be]; and we the said justices adjudge the said *A. B.* for his said offence to forfeit and pay the sum of _____ [here state the amount of the sum to be paid]; and in default of immediate payment of the said sum, to be imprisoned in the _____ for the space of _____, unless the said sum shall be sooner paid; [or, and we order that the said sum shall be paid by the said *A. B.* on or before the _____ day of _____; and in default of payment on or before that day, we adjudge the said *A. B.* to be imprisoned in the _____ for the space of _____, unless the said sum shall be sooner paid]; and we direct that the said sum shall be paid to _____ the receiver for the metropolitan police district, to be by him applied according to the Act passed in the tenth year of the reign of his Majesty King George the Fourth, intituled *An Act for improving the Police in and near the Metropolis*. Given under our hands the day and year first above mentioned.'

XL. And be it enacted, That no conviction, order, warrant, or other matter, made or purporting to be made by virtue of this Act, shall be quashed for want of form, or be removed by *certiorari* or otherwise into

No.

XXXVI.

10 Geo. IV.

c. 44.

Limitation of Time for such Proceedings.

Application of Penalties.

Persons paying Police Rate may give Evidence or act as Justices.

Scale of Imprisonment for Non-payment of Penalties.

Form of Conviction.

No *Certiorari*, &c.

No.

XXXVI.

10 Geo. IV.

c. 44.

As to Informality in Warrants, &c.

Venue in Proceedings against Persons acting under this Act;

Notice of Action;
General Issue;

Tender of Amends, &c.

This Act not to supersede
3 G. 4. c. 55.
or 6 G. 4. c. 21.

Act may be altered this Session.

Public Act.

any of his Majesty's Courts of Record at *Westminster*; and no warrant of commitment shall be held void by reason of any defect therein, provided that it be therein alleged that the party has been convicted, and there be a good and valid conviction to sustain the same; and where any distress shall be made for levying any money by virtue of this Act, the distress itself shall not be deemed unlawful, nor the party making the same be deemed a trespasser, on account of any defect or want of form in the summons, conviction, warrant of distress, or other proceedings relating thereto; nor shall the party distraining be deemed a trespasser *ab initio*, on account of any irregularity afterwards committed by him, but the person aggrieved by such irregularity may recover full satisfaction for the special damage, if any, in an action upon the case.

XLII. And for the protection of persons acting in the execution of this Act, be it enacted, That all actions and prosecutions to be commenced against any person for any thing done in pursuance of this Act shall be laid and tried in the county where the fact was committed, and shall be commenced within six calendar months after the fact committed, and not otherwise; and notice in writing of such action, and of the cause thereof, shall be given to the defendant one calendar month at least before the commencement of the action; and in any such action the defendant may plead the general issue, and give this Act and the special matter in evidence at any trial to be had thereupon; and no plaintiff shall recover in any such action if tender of sufficient amends shall have been made before such action brought, or if a sufficient sum of money shall have been paid into court after such action brought, by or on behalf of the defendant; and if a verdict shall pass for the defendant, or the plaintiff shall become nonsuit, or discontinue any such action after issue joined, or if, upon demurrer or otherwise, judgment shall be given against the plaintiff, the defendant shall recover his full costs as between attorney and client, and have the like remedy for the same as any defendant hath by law in other cases: and though a verdict shall be given for the plaintiff in any such action, such plaintiff shall not have costs against the defendant, unless the judge before whom the trial shall be shall certify his approbation of the action and of the verdict obtained thereupon.

XLIII. Provided always, and be it enacted, That nothing in this Act contained shall affect or alter an Act passed in the third year of the reign of his present Majesty, intituled *An Act for the more effectual Administration of the Office of a Justice of the Peace in and near the Metropolis, and for the more effectual Prevention of Depredations on the River Thames and its Vicinity, for Seven Years*; or an Act passed in the sixth year of the present reign, intituled *An Act to amend an Act for the more effectual Administration of the Office of Justice of the Peace in and near the Metropolis*.

XLIII. And be it enacted, That this Act may be amended altered or repealed by any Act to be passed in this present session of Parliament.

XLIV. And be it enacted, That this Act shall be deemed and taken to be a public Act, and shall be judicially taken notice of as such by all judges justices and others, without being specially pleaded.

SCHEDULE to which this Act refers.

A LIST of the Parishes, Townships, Precincts, and Places referred to by the Act as constituting "The Metropolitan Police District."

COUNTY OF MIDDLESEX.

City and Liberties of Westminster.

The Parishes of Saint Margaret and Saint John the Evangelist.
The Parish of Saint Martin in the Fields.
The Parish of Saint George, Hanover Square.
The Parish of Saint James.

The Parish of Saint Mary-le-Strand, as well within the Liberty of Westminster as within the Duchy Liberty.
 The Parish of Saint Clement Danes, as well within the Liberty of Westminster as within the Duchy Liberty.
 The Parish of Saint Paul, Covent Garden.
 The Parish of Saint Ann in the Liberty of Westminster.
 Whitehall Gardens, whether the same be Parochial or Extra-parochial.
 Whitehall, whether the same be Parochial or Extra-parochial.
 Richmond Terrace, whether the same be Parochial or Extra-parochial.
 The close of the Collegiate Church of Saint Peter.

Holborn Division.

The Parishes of Saint Giles in the Fields and Saint George, Bloomsbury.
 The Parishes of Saint Andrew, Holborn, and Saint George the Martyr.
 The Liberty of Saffron Hill, Hatton Garden, and Ely Rents.
 The Liberty of the Rolls.
 The Parish of Saint Pancras.
 The Parish of Saint John, Hampstead.
 The Parish of Saint Mary-le-bone.
 The Parish of Paddington.
 The Precinct of the Savoy.

Finsbury Division.

The Parish of Saint Luke.
 The Liberty of Glasshouse Yard.
 The Parish of Saint Sepulchre.
 The Parish of Saint James, Clerkenwell, including both Districts of Saint James and Saint John.
 The Parish of Saint Mary, Islington.
 The Parish of Saint Mary, Stoke Newington.
 The Charter House.

Tower Division.

The Parish of Saint Mary, Whitechapel.
 The Parish of Christchurch.
 The Parish of Saint Leonard, Shoreditch.
 The Liberty of Norton Folgate.
 The Parish of Saint John, Hackney.
 The Parish of Saint Matthew, Bethnal Green.
 The Hamlet of Mile End Old Town.
 The Hamlet of Mile End New Town.
 The Parish of Saint Mary, Stratford Bow.
 The Parish of Bromley Saint Leonard.
 The Parish of All Saints, Poplar.
 The Parish of Saint Ann, Limehouse.
 The Hamlet of Ratcliffe.
 The Parish of Saint Paul, Shadwell.
 The Parish of Saint George in the East.
 The Parish of Saint John, Wapping.
 The Liberty of East Smithfield.
 The Precinct of Saint Catherine.
 The Liberty of His Majesty's Tower of London, consisting of
 The Liberty of the Old Artillery Ground.
 The Parish of Trinity, Minories.
 The Old Tower Precinct.
 The Precinct of the Tower within.
 The Precinct of Wellclose.

Kensington Division.

The Parish of Kensington.
 The Parish of Saint Luke, Chelsea.
 The Parish of Fulham.
 The Hamlet of Hammersmith.



The Parish of Chiswick.

The Parish of Ealing.

The Parish of Acton.

Brentford Division.

The Township of New Brentford.

Extra-parochial Places.

Lincoln's Inn.

Gray's Inn.

Staple's Inn.

That Part of Furnival's Inn in the County of Middlesex.

Ely Place.

KENT.

The Parish of Saint Paul, Deptford.

The Parish of Saint Nicholas, Deptford.

The Parish of Greenwich.

SURREY.

The Parish of Barnes.

The Parish of Battersea.

The Hamlet of Penge.

The Parish of Bermondsey.

The Parish of Camberwell.

The Parish of Clapham.

The Parish of Lambeth.

The Parish of Newington.

The Parish of Putney.

The Parish of Rotherhithe.

The Parish of Streatham.

The Parish of Tooting.

The Parish of Wandsworth.

The Parish of Christchurch.

Clink Liberty.

The Hamlet of Hatcham in the Parish of Deptford.

BOROUGH or SOUTHWARK.

The Parish of Saint George.

The Parish of Saint Saviour.

The Parish of Saint John.

The Parish of Saint Olave.

The Parish of Saint Thomas.

No.

[No. XXXVII.] 10 Geo. IV. c. 45.—An Act to continue, until the Fifth Day of July One thousand eight hundred and thirty-two, an Act for the more effectual Administration of the Office of a Justice of the Peace in and near the Metropolis.—[19th June 1829.]

XXXVII.
10 Geo. IV.
c. 45.

WHEREAS an Act was passed in the third year of the present reign, intituled *An Act for the more effectual Administration of the Office of a Justice of the Peace in and near the Metropolis, and for the more effectual Prevention of Depredations on the River Thames and its Vicinity, for Seven Years*, which Act was amended by an Act passed in the sixth year of the present reign, intituled *An Act to amend an Act for the more effectual Administration of the Office of Justice of the Peace in and near the Metropolis*: And whereas it is expedient to continue the said first-mentioned Act as the same is amended by the said last-mentioned Act; be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That the said Act of the third year of this reign, as the same is amended by the said Act of the sixth year of this reign, and by this Act, shall continue and be in force until the fifth day of July one thousand eight hundred and thirty-two, and from thence until the end of the then next session of Parliament.

3 G. 4. c. 55.

6 G. 4. c. 21.

Recited Act
3 G. 4. c. 55.
as amended by
6 G. 4. c. 21.
and this Act,
continued.

II. And whereas, in case of the establishment of a new police office for the administration of the police in and near the metropolis, it may be expedient that the horse and foot patrol, now acting under the orders of the chief magistrate of the public office in *Bow Street*, should be placed under the orders of such new police office; be it therefore enacted, That it shall be lawful for one of his Majesty's principal secretaries of state to direct that such horse and foot patrol shall be under the orders of the justices of such new police office when the same shall be established; and that any of such justices shall have power to administer, to all persons who now do or hereafter may belong to such horse and foot patrol, an oath to the same effect as the chief magistrate of the office in *Bow Street* is empowered to administer by the said recited Act of the sixth year of this reign; and the persons taking such oath shall have power to act as constables within the same counties and places as are mentioned in the said last-mentioned Act, and shall in such counties and places have all such powers, authorities, privileges, and advantages as any constable now has or hereafter may have within his constableness; and it shall be lawful for such principal secretary of state to direct that the receiver appointed under the said recited Act of the third year of this reign shall, out of the monies issued to him out of the consolidated fund, pay over in each year to such person as may be appointed receiver of monies applicable to the purposes of such new police, such sum of money as may now by law be applied to the maintenance of the said horse and foot patrol, the same to be hereafter applied towards defraying the charges and expences of the said horse and foot patrol, after the same shall be placed under the orders of such new police office.

Secretary of
State may
direct that the
Horse and
Foot Patrol be
placed under
the new Police
Office when
established.

III. And whereas it is expedient to remove all doubts respecting the application of such penalties and forfeitures as may be recovered before any justice or justices at any of the offices mentioned in the said Act of the third year of this reign; be it therefore enacted, That where by any Act or Acts any penalties or forfeitures, or shares of penalties or forfeitures, are or shall be recoverable in a summary manner before any justice or justices of the peace, and by such Act or Acts respectively the same are or shall be limited and made payable to his Majesty, or to any body corporate, or to any person or persons whatsoever, save and except the informer who shall sue for the same, or any party aggrieved, in every such case the same, if recovered or adjudged before any justice or justices at any of the said offices, shall, notwithstanding any thing in such Act or

For removing
Doubts as to
the Application
of Penalties and
Forfeitures
recovered be-
fore any of the
Justices.

No.

XXXVII.

10 Geo. IV.

c. 45.



Acts respectively contained, be recovered for and adjudged to be paid to the receiver for the time being mentioned in the said Act of the third year of this reign, to be by him applied for the purposes of the said Act; and the same shall not in any case be recovered by or adjudged to be paid to any other person than the said receiver, unless such person be the informer or the party aggrieved; and each of the justices at the said offices, and their clerks, and the said receiver, are hereby released and indemnified from all claims and demands, except those of his Majesty, in respect of any penalties or forfeitures, or shares of penalties or forfeitures, which before the passing of this Act shall have been received at any of the said offices, and claimed and retained for or on behalf of the said receiver.

P A R T VI.

CLASS XXIV.

PART VI.

CLASS XXIV.

Lord's Day.

2. [No. I.] 1 Elizabeth, c. 2.—An Act for the Uniformity of Common Prayer and Service in the Church, and Administration of the Sacraments.*

1 Elizabeth,
c. 2.

Every Person
shall resort to
the Church
upon the Holy
Days.

One Justice
may convict the
Offender, by
3 Jac. 1. c. 4.
§ 27.

The Forfeiture
for not coming
to Church.

XIV. AND that from and after the said Feast of the Nativity of *St. John Baptist* next coming all and every person and persons inhabiting within this realm or any other the Queen's Majesty's dominions shall diligently and faithfully, having no lawful or reasonable excuse to be absent, endeavour themselves to resort to their parish church or chapel accustomed, or upon reasonable let thereof to some usual place where common prayer and service of God shall be used in such time of let upon every *Sunday* and other days ordained and used to be kept as holy days, and then and there to abide orderly and soberly during the time of the common prayer preaching or other service of God there to be used and ministered; (2) upon pain of punishment by the censurers of the church, and also upon pain that every person so offending shall forfeit for every such offence twelve pence, to be levied by the churchwardens of the parish where such offence shall be done, to the use of the poor of the same parish, of the goods lands and tenements of such offender by way of distress.

* For the general Contents of this Statute, see Part V. Class I. No. 42.

[No. II.] 3 James I. c. 4.—An Act for the better discovering and repressing of Popish Recusants.*

3 James I. c. 4. XXVII. AND be it further enacted, That if any subject of this realm, at any time after one month next after the end of this present session of Parliament, shall not resort or repair every *Sunday* to some church chapel or some other usual place appointed for common prayer, and there hear divine service according to the statute made in that behalf in the first year of the reign of the late Queen *Elizabeth*, that then it shall and may be lawful to and for any one justice of peace of that limit division or liberty wherein the said party shall dwell, upon proof unto him made of such default by confession of the party or oath of witness, to call the said party before him; and if he or she shall not make a sufficient excuse and due proof thereof to the satisfaction of the said justice of peace, that it shall be lawful for the said justice of peace to give warrant to the churchwardens of the said parish wherein the said party shall dwell, under his hand and seal, to levy twelve pence for every such default by distress and sale of the goods of every such offender, rendering to the said offender the overplus of the money raised of the said goods so to be sold; and that in default of such distress it shall and may be lawful for the said justice of peace to commit every such offender to some prison within the

1 Eliz. c. 2.

Forfeiture for
not repairing to
Church weekly.

* For other part see Part V. Class I. No. 54.

said shire division limit or liberty wherein such offender shall be inhabiting until payment be made of the said sum or sums so to be forfeited; which forfeiture shall be employed to and for the use of the poor of that parish wherein the offender shall be resident or abiding at the time of such offence committed.

XXVIII. Provided, That no man be impeached upon this clause except he be called in question for his said default within one month next after the said default made.

No. II.

3 James I.
c. 4.

[No. III.] 1 Charles I. c. 1.—An Act for punishing divers Abuses committed on the Lord's Day, called Sunday.

FORASMUCH as there is nothing more acceptable to God than the true and sincere service and worship of Him according to his holy will, and that the holy keeping of the Lord's day is a principal part of the true service of God, which in very many places of this realm hath been and now is profaned and neglected by a disorderly sort of people in exercising and frequenting bear-baiting bull-baiting interludes common plays and other unlawful exercises and pastimes upon the Lord's day; and for that many quarrels bloodsheds and other great inconveniences have grown by the resort and concourse of people going out of their own parishes to such disordered and unlawful exercises and pastimes, neglecting divine service both in their own parishes and elsewhere;

(2) Be it enacted by the King's most excellent Majesty the Lords Spiritual and Temporal and the Commons in this present Parliament assembled, and by the authority of the same, That from and after forty days next after the end of this session of Parliament there shall be no meetings assemblies or concourse of people out of their own parishes on the Lord's day within this realm of England or any the dominions thereof for any sports and pastimes whatsoever: (3) nor any bear-baiting bull-baiting interludes common plays or other unlawful exercises and pastimes used by any person or persons within their own parishes: (4) and that every person or persons offending in any the premises shall forfeit for every offence three shillings four pence, the same to be employed and converted to the use of the poor of the parish where such offence shall be committed; (5) and that any one justice of the peace of the county, or the chief officer or officers of any city borough or town corporate where such offence shall be committed upon his or their view or confession of the party, or proof of any one or more witness by oath which the said justice or chief officer or officers shall by virtue of this Act have authority to minister shall find any person offending in the premises, the said justice or chief officer or officers shall give warrant under his or their hand and seal to the constables and churchwardens of the parish or parishes where such offence shall be committed to levy the said penalty so to be assessed by way of distress and sale of the goods of every such offender, rendering to the said offender the overplus of the money raised of the said goods so to be sold; and in default of such distress that the party offending be set publicly in the stocks by the space of three hours; (6) and that if any man be sued or impeached for execution of this law he shall and may plead the general issue and give the said matter of justification in evidence: (7) Provided, That no man be impeached by this Act except he be called in question within one month next after the said offence committed: (8) Provided also, That the ecclesiastical jurisdiction within this realm or any the dominions thereof by virtue of this Act or any thing therein contained shall not be abridged, but that the Ecclesiastical Court may punish the said offences as if this Act had not been made. (9) This Act to continue until the end of the first session of the next Parliament and no longer. [3 Car. 1. c. 4. continued until the end of the first session of the next Parliament, and farther continued by 16 Car. 1. c. 4. and enforced by 29 Car. 2. c. 7.]

1 Car. I. c. 1.

There shall be no Assemblies for unlawful Pastimes upon the Lord's Day.

Unlawful Meetings and Pastimes on the Lord's Day forbidden.

Every Person using any unlawful Pastimes on the Lord's Day shall forfeit 3s. 4d. to the Poor of the Parish.

After Conviction by Warrant from a Justice, &c. the Constables, &c. may levy the Penalty, &c.

General Issue. Limitation of Action.

The Ecclesiastical Jurisdiction not abridged.

No. IV. [No. IV.] 3 Charles I. c. 1.—An Act for the further Reformation of sundry Abuses committed on the Lord's Day, commonly called *Sunday*.

3 Charles I.
c. 1.

A Carrier, &c.
that travels on
the Lord's
Day shall for-
feit 20s.

Butchers that
sell or kill Vic-
tual upon that
Day shall for-
feit 6s. 8d.

After Convic-
tion, and by
Warrant from a
Justice, &c. the
Constables, &c.
may levy the
said Forfeitures
to the Use of
the Poor, or
they may be
recovered by
Suit.

‘FORASMUCH as the Lord's day, commonly called *Sunday*, is much broken and profaned by carriers waggons carters wain-men butchers and drovers of cattle, to the great dishonour of God and reproach of religion;’ Be it therefore enacted by the King's most excellent Majesty, and Lords Spiritual and Temporal and by the Commons in this present Parliament assembled, and by the authority of the same, That no carrier with any horse or horses, nor waggon-men with any waggon or waggons, nor carman with any cart or carts, nor wainman with any wain or wains, nor drovers with any cattle, shall after forty days next after the end of this present session of Parliament, by themselves or any other travel upon the said day upon pain that every person and persons so offending shall lose and forfeit twenty shillings for every such offence: or if any butcher by himself or any other for him by his privity or consent shall after the end of the said forty days kill or sell any victual upon the said day, that then every such butcher shall forfeit and lose for every such offence the sum of six shillings and eight pence; (1.) the said offences and every of them being done in view of any justice of peace mayor or other head officer of any city or town corporate within their limits respectively, or being proved upon oath by two or more witnesses or by the confession of the party offending before any such justice mayor or head officer within their several limits respectively wherein such offence shall be committed: to which end every such justice mayor or head officer shall have power by this Act to minister an oath to such witness or witnesses: all which sums or penalties shall or may be levied by any constable or churchwarden by warrant from any such justice or justices of the peace mayor or other head officer as aforesaid within their several limits where such offence shall be committed or done, by distress and sale of the offender's goods, rendering to the party the overplus, or shall be recovered by any person or persons that will sue for the same by bill plaint or information in any of his Majesty's courts of record in any city or town corporate, before his Majesty's justices of the peace in their general sessions of the peace: all which forfeitures shall be employed to and for the use of the poor of the parishes where the said offence shall be committed or done, saving only that it shall be lawful to and for any such justice mayor or head officer out of the said forfeitures to reward any such person or persons that shall inform or otherwise prosecute any person or persons offending against this present Act according to their discretions, so that such reward exceed not the third part of the forfeiture: Provided that such bill plaint or information shall be commenced sued and prosecuted in the county city or town corporate where such offence shall be committed and done and not elsewhere; wherein no essoin protection or wager of law shall be allowed to the defendant: Provided always, That it shall be lawful for any constable or churchwarden that shall have any suit or action brought against them for any distress by them or any of them to be taken by force of this present Act to plead the general issue and to give the special matter in evidence: Provided likewise, That no person or persons whatsoever shall be impeached by this Act, unless he be thereof questioned within six months after the offence committed: Provided further, That this Act shall not in any sort abridge or take away the authority of the Courts Ecclesiastical. This Act to continue to the end of the first session of the next Parliament. [Enforced by 39 Car. 2. c. 7. and see farther 10 & 11 W. 3. c. 24. sect. 14.]

(1.) An Indictment against a Butcher for selling Meat on a Sunday, must conclude contra Formam Statuti: Rex v. Brotherton, 1 Str. 702.

[No. V.] 29 Charles II. c. 7.—An Act for the better Observation of the Lord's Day, commonly called *Sunday*.

No. V.

29 Car. II.

c. 7.

29 Charles II.

c. 7.

FOR the better observation and keeping holy the Lord's day, commonly called *Sunday*; Be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and of the Commons in this present Parliament assembled, and by the authority of the same, That all the laws enacted and in force concerning the observation of the Lord's day, and repairing to the church thereon be carefully put in execution; and that all and every person and persons whatsoever shall on every Lord's day apply themselves to the observation of the same, by exercising themselves thereon in the duties of piety and true religion, publicly and privately; and that no tradesman, artificer, workman, labourer or other person whatsoever shall do or exercise any worldly labour business or work of their ordinary callings (1.) upon the Lord's day, or any part thereof (works of necessity (2.) and charity only excepted;) and that every person being of the age of fourteen years or upwards offending in the premises shall for every such offence forfeit the sum of five shillings; (3.) and that no person or persons whatsoever shall publicly cry shew forth or expose to sale any wares merchandizes fruit herbs goods or chattels whatsoever upon the Lord's day or any part thereof upon pain that every person so offending shall forfeit the same goods so cried or shewed forth or exposed to sale.

Tradesmen,
Artificers, and
Labourers.

None shall cry
or expose to
Sale Wares.

II. And it is further enacted, That no drover horse-courser waggoner butcher higler their or any of their servants shall travel or come into his or their inn or lodging upon the Lord's day or any part thereof upon pain that each and every such offender shall forfeit twenty shillings for every such offence; and that no person or persons shall use employ or travel upon the Lord's day with any boat (4.) wherry lighter or barge, except it be upon extraordinary occasion to be allowed by some justice of the peace of the county or head officer or some justice of the peace of the city borough or town corporate where the fact shall be committed; upon pain that every person so offending shall forfeit and lose the sum of five shillings for every such offence. And that if any person offending in any of the premises shall be thereof convicted before any justice of the peace of the county or the chief officer or officers or any justice of the peace of or within any city borough or town corporate where the said offences shall be committed, upon his or their view or confession of the party or proof of any one or more witnesses by oath (which the said justices chief officer or officers is by this Act authorised to administer) the said justice or chief officer or officers shall give warrant under his or their hand and seal to the constables or churchwardens of the parish or parishes where such offence shall be committed to seize the said goods cried shewed forth or put to sale as aforesaid, and to sell the same and to levy the said other forfeitures or penalties by way of distress and sale of the goods of every such offender distrained, rendering to the said offenders the overplus of

Drovers, Horse-
coursers, Wag-
goners,
Butchers and
Higlers, Boats
and Barges.

In what Man-
ner the Convic-
tion shall be.

The Penalty
how to be le-
vied.

(1.) In *Drury v. Defontaine*, 1 Taunt. 131. it was ruled that a Sale of a Horse on a Sunday was not void, such Sale not being within the ordinary Calling of the Plaintiff or his Agent: but *Mansfield, C. J.* intimated an opinion, that if it had been such ordinary Calling the Contract would have been void.

(2.) The baking Provisions for Customers is within this exception, and (come ssemble) within the exception in Section 3. as to Cooks' Shops: *R. v. Cox*, 2 Bur. 787; *R. v. Younger*, 5 T. R. 449. But baking Rolls on a Sunday is within the Act: *Crepps v. Durden*, Cowp. 641; and by 34 Geo. 3. c. 61. no Baker in the City of London, or within Twelve Miles thereof, shall make, bake, or expose to Sale, any Bread or Rolls; or

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hake any Meat Puddings, Pies, or Tarts; or in any other manner exercise the Trade of a Baker on the Lord's Day, on Pain of forfeiting 10s.; and for want of Distress to be committed to the House of Correction for Seven Days: provided, that the Act shall not extend to prohibit the selling of Bread, or baking Meat Puddings or Pies, between Nine in the Forenoon and One in the Afternoon, so as the Person requiring the baking thereof carry or send the same to and from the Place where baked.

(3.) The Penalty can only be incurred once on the same Day: *Crepps v. Durden*, Cowp. 640.

(4.) By 11 & 12 W. 3. c. 24. § 13. Forty Watermen may play on the Thames, between Vauxhall and Limehouse.

2 L

No. V.

29 Car. II.
c. 7.

In case of Insufficiency, the Offender shall be set in the Stocks. The Forfeitures how to be disposed of.

A Provision for private Families, Victualling-houses, &c.

The Prosecution to be within Ten Days.

The Hundred not responsible to Persons travelling on the Lord's Day; but shall make fresh Suit after the Offenders.

27 Eliz. c. 13.

Service of Process on the Lord's Day shall be void.

the monies raised thereby; and in default of such distress or in case of insufficiency or inability of the said offender to pay the said forfeitures or penalties, that then the party offending be set publicly in the stocks by the space of two hours. And all and singular the forfeitures or penalties aforesaid shall be employed and converted to the use of the poor of the parish where the said offences shall be committed, saving only that it shall and may be lawful to and for any such justice mayor or head officer or officers out of the said forfeitures or penalties to reward any person or persons that shall inform of any offence against this Act according to their discretions, so as such reward exceed not the third part of the forfeitures or penalties.

III. Provided, That nothing in this Act contained shall extend to the prohibiting of dressing of meat in families or dressing or selling of meat in inns cooks-shops or victualling-houses for such as otherwise cannot be provided, nor to the crying or selling of milk before nine of the clock in the morning or after four of the clock in the afternoon.

IV. Provided also, That no person or persons shall be impeached prosecuted or molested for any offence before-mentioned in this Act, unless he or they be prosecuted for the same within ten days after the offence committed. (5.)

V. Provided and be it further enacted by the authority aforesaid, That if any person or persons whatsoever which shall travel upon the Lord's day shall be then robbed, that no hundred or the inhabitants thereof shall be charged with or answerable for any robbery so committed, but the person or persons so robbed shall be barred from bringing any action for the said robbery; any law to the contrary notwithstanding: Nevertheless the inhabitants of the counties and hundreds (after notice of any such robbery to them or some of them given or after hue and cry for the same to be brought) shall make or cause to be made fresh suit and pursuit after the offenders with horsemen and footmen according to the statute made in the twenty-seventh year of the reign of Queen Elizabeth, upon pain of forfeiting to the King's Majesty his heirs and successors as much money as might have been recovered against the hundred by the party robbed if this law had not been made.

VI. Provided also, That no person or persons upon the Lord's day shall serve or execute or cause to be served or executed any writ process warrant order judgment or decree (except in cases of treason felony or breach of the peace) but that the service of every such writ process warrant order judgment or decree shall be void to all intents and purposes whatsoever: and the person or persons so serving or executing the same shall be as liable to the suit of the party grieved and to answer damages to him for doing thereof as if he or they had done the same without any writ process warrant order judgment or decree at all. (6.)

(5.) By 10 & 11 W. 3. c. 24. § 14. Mackarel may be sold before or after Divine Service.

(6.) The following Note upon this Subject was subjoined by the Editor to the Case of Wilson v. Tucker, 1 Salk. 78. in the sixth edition of that Work. The Addition in Brackets contains the Cases since decided:

"Before the Statute, ministerial Acts upon a Sunday were lawful: 9 Co. 660; 2 Cro. 280; 2 Bul. 72. A Defendant arrested on another Day and escaping, may be retaken on a Sunday; Mod. Ca. 231. So a person may be taken on an escape Warrant; Parker v. Moor, 2 Salk. 626: but not after a voluntary Escape; Featherstonehaugh v. Atkinson, Barn. 373: nor a Person arrested and liberated, there being, at the Time of the liberation, a Detainer at the Suit of another Person; Atkinson v. Jameson, 5 T. R. 25. Bail may seize their Principal; Mod. Ca. 231: but

not Sheriff's Bail; Brookes v. Warren, 2 Bl. Rep. 1273. A Person may be arrested on a Sunday on the Lord Chancellor's Warrant, on an Order of Commitment for a Contempt; 1 Atk. 55: not upon an Attachment for Nonperformance of an Award; Dut. 1 T. R. 265. A Person convicted by Justices on a penal Statute cannot be apprehended on a Sunday for Want of Distress; Rex v. Myers, 1 T. R. 265." [A Rule Nisi, for an Attachment for Nonpayment of Money, cannot be served on a Sunday; Mc. Ilham v. Smith, 8 T. R. 86. Service of Notice of Plea, filed on a Sunday, is void; Roberts v. Makhhouse, 8 East, 547. A Writ returnable on a Sunday must be executed at latest, on the Saturday; Leveridge v. Plaistow, 2 H. B. 29. The Service of any Process on Sunday is absolutely void, and cannot be made good by any subsequent Waiver; Taylor v. Phillips, 3 E. 155.]

PART VI.

CLASS XXV.

Lunatics.

[No. I.] 17 George II. c. 5.—An Act to amend and make more effectual the Laws relating to Rogues, Vagabonds, and other idle and disorderly Persons, and to Houses of Correction.

[See post. title *Vagrants*, Class 38. No. 2.—Sections 20 and 21 relate to the Confinement of Persons furiously mad.]

[No. II.] 14 George III. c. 49.—An Act for regulating Madhouses.

‘ WHEREAS many great and dangerous abuses frequently arise from the present state of houses kept for the reception of lunatics for want of regulations with respect to the persons keeping such houses the admission of patients into them and the visitation by proper persons of the said houses and patients: And whereas the law as it now stands is insufficient for preventing or discovering such abuses;’ May it therefore please your Majesty that it may be enacted; and be it enacted by the King’s most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That from and after the twentieth day of *November* one thousand seven hundred and seventy-four if any person or persons in that part of *Great Britain* called *England* the dominion of *Wales* or town of *Berwick-upon-Tweed* shall upon any pretence whatsoever conceal harbour entertain or confine in any house or place kept for the reception of lunatics more than one lunatic at any one time, without having such licence for that purpose as is herein-after directed (except such lunatics as are committed by the Lord High Chancellor of *Great Britain* or lord keeper or commissioners for the custody of the great seal for the time being) every such person shall for every such offence forfeit and pay the sum of five hundred pounds.

14 George III.
c. 49.

If any Person conceal more than one Lunatic without Licence, he forfeits 500*l*.

II. ‘ And in order that proper persons may be appointed for visiting such houses as shall be licensed and kept for the reception of lunatics within the cities of *London* and *Westminster* and within seven miles of the same and within the county of *Middlesex*,’ Be it further enacted by the authority aforesaid, That the president and fellows of the Royal College of Physicians in *London* for the time being, at a general meeting of the said college to be held upon the last day of *September*, or if that day falls upon *Sunday* then upon the first day of *October* in every year, shall elect five fellows of the said college for granting such licences as aforesaid within the said cities of *London* and *Westminster* and within seven miles of the same and within the said county of *Middlesex* according to the directions of this Act; and the said five fellows so elected shall be and are hereby declared to be commissioners for granting such licences within the limits aforesaid for the year then next ensuing; provided that two at least of the said fellows to be so elected shall be persons who have not acted as commissioners for the preceding year; and that no person whatsoever

College of Physicians, yearly, may elect five Fellows for granting Licences, &c.

No. II.

14 Geo. III.
c. 49.

In case of
Death, &c.
President to
call Meeting
for Election of
another.

Commissioner
to take follow-
ing Oath.

Commissioners
not attending, or
refusing to take
the Oath, forfeit 5l.

Meetings to be
in the College
Hall, &c.

Treasurer of
the College to
be Treasurer for
the Purposes of
this Act.

Secretary to be
appointed; who
shall take the
Oath.

shall be capable of being elected or of acting as a commissioner for more than three years successively.

III. And be it further enacted, That in case at any time of election there shall not be found a sufficient number of fellows qualified or willing to act as commissioners the said president and fellows are hereby required upon every such deficiency to elect one or more from among the licentiates to supply the same.

IV. And be it further enacted by the authority aforesaid, That as often as any of the commissioners to be elected as aforesaid shall die or refuse to act, the said president is hereby required to call a meeting of the said fellows within fourteen days next after such death or refusal shall be known to the said president in order to elect a commissioner in the room of every commissioner who shall so die or refuse to act; and every commissioner so to be elected shall be and is hereby vested with the same power and authority in all respects whatsoever as the commissioner in whose place he shall be chosen was vested with.

V. And be it further enacted, That every person who shall be elected a commissioner to act within the cities of *London* and *Westminster* and within seven miles of the same and within the county of *Middlesex* as aforesaid, shall within ten days after such election take the following oath; (that is to say)

‘ I A. B. do swear, That I will faithfully and impartially execute all the trusts committed unto me, by virtue of an Act of Parliament made in the fourteenth year of the reign of King *George* the Third, intituled “ An Act for regulating Madhouses;” and that I will not directly or indirectly give notice or cause notice to be given to the keeper or person having the care of any house or place licensed for the reception of lunatics of the time of visitation of such house or place.

‘ So help me God.’

Which oath it shall and may be lawful for the president of the College of Physicians for the time being to administer to every such commissioner so to be elected as aforesaid upon the day he shall be so elected or within ten days afterwards: and in case any person who shall be elected a commissioner as aforesaid and who shall be summoned by the president of the said college to attend the said president to take the said oath at such time as shall be mentioned in such summons shall refuse or neglect to attend or attending shall refuse to take the said oath he shall forfeit and pay the sum of five pounds to be applied to the use of the said college.

VI. And be it further enacted by the authority aforesaid, That the said commissioners so to be elected as aforesaid or any three or more of them shall meet in the hall or some other convenient place in the said college as often as they shall think fit so as such meetings do not interfere with the meetings of the board of censors nor with any other general meeting of the College of Physicians; and that at all meetings of the said commissioners to be holden for the purposes of this Act the commissioner who is of the longest standing in the college shall be the chairman.

VII. And be it further enacted, That the treasurer of the said college for the time being shall be the treasurer for the purposes of this Act; and that the said commissioners or any three or more of them shall at some meeting to be holden within fourteen days next after they shall be elected as aforesaid chuse and appoint a proper person to be their secretary for the year then ensuing; and such secretary shall be paid such salary or gratuity for his trouble and attendance in the execution of his office by the said treasurer as the said commissioners or any three or more of them shall order and direct; and every such secretary shall at the next meeting of the said commissioners after he shall be so appointed take the following oath:

‘ I A. B. do swear, That I will faithfully execute all such trusts as shall be committed to my charge as secretary to the commissioners for executing an Act of Parliament made in the fourteenth year of the

‘ reign of King *George* the Third, intituled “ An Act for regulating ‘ Madhouses;” and that I will keep secret all such matters as shall come ‘ to my knowledge in the execution of my office (except when required ‘ to divulge the same by legal authority).

No. II.

14 Geo. III.
c. 49.

‘ So help me Gon.’

VIII. And be it further enacted, That the said commissioners or any three or more of them shall meet annually on the third *Wednesday* in the month of *October* or within ten days afterwards, in order to grant licences to persons for keeping houses for the reception of lunatics for one year from the twentieth day of *November* then next ensuing, within the said cities of *London* and *Westminster* and within seven miles of the same and within the said county of *Middlesex*; but notice of the place and of the day and hour of every meeting for granting such licences shall always be published three several times in the *London Gazette* before the day of meeting for granting any such licences (which licences they are hereby required to grant to all persons who shall desire the same); and all licences to be granted by the said commissioners shall be duly stamped with a five shillings stamp and shall be under the hands and seals of three or more of the said commissioners, for each of which licences there shall be paid to the said secretary by the person applying to take out the same the sums following; (that is to say), For each and every house wherein there shall be kept any number of lunatics not exceeding ten the sum of ten pounds; and for each and every house wherein there shall be kept above ten the sum of fifteen pounds and no more, over and above what shall have been paid for the said stamp: which money shall be paid over by the said secretary to the said treasurer; and the further sum of six shillings and eight pence and no more shall be paid on every such licence to the said secretary for his fee.

Time of the
Commissioners
Annual Meeting
for granting Li-
cences.Licences to be
stamped.Sums to be paid
by Persons tak-
ing out Li-
cences.

IX. Provided always, That no one licence shall authorise any person or persons to keep more houses than one for the reception of lunatics; nor shall any licence to be granted by virtue of this Act continue in force for any longer time than for one year.

X. And be it further enacted by the authority aforesaid, That no commissioner to be appointed as aforesaid shall directly or indirectly during the time he shall be a commissioner be interested in keeping any house for the reception of lunatics, upon pain of forfeiting for such offence the sum of fifty pounds.

No Commis-
sioner to keep
any House for
Lunatics, &c.

XI. And be it further enacted, That the president of the said College of Physicians for the time being shall and is hereby required to cause summons to be sent to the said several commissioners, requiring them to attend at the first meeting after they shall be appointed commissioners as aforesaid; all which summons shall be sent by the beadle or such other person belonging to the said college, as the said president shall think proper; and shall be left at the respective houses or usual places of abode of each commissioner.

President to
summon Com-
missioners At-
tendance for
the first Meet-
ing.

XII. Provided nevertheless, That in case any two commissioners shall at any time or times think proper to call a meeting of the said commissioners, such two commissioners may themselves cause the like notice to be given and to be sent in manner aforesaid to the other commissioners, requiring their attendance at such time and place as shall be expressed in such notice.

Two Commis-
sioners may
call a Meeting.

XIII. Provided always, That at all meetings of the said commissioners in the execution of this Act, in case of an equality of votes the chairman shall have the casting vote.

Chairman cast-
ing Vote.

XIV. And be it further enacted, That the said commissioners or any three or more of them, either by themselves or with their secretary as they shall think fit, shall and they are hereby required once at least in every year, and whenever required by the Lord High Chancellor or Lord Keeper or Commissioners for the custody of the Great Seal or by the Lord Chief Justice of the Court of King's Bench or by the Lord Chief Justice of the Court of Common Pleas for the time being, to visit and inspect all such houses as shall have been licenced by them as aforesaid, between the hours of eight and five in the day-time; and may in like manner at

Commissioners
to visit and in-
spect.

No. II.
14 Geo. III.
c. 49.

At each Visitation to make Minutes, &c.

Refusing Admittance, to forfeit Licence.

Commissioners to keep an exact Account.

President to inspect Registers.

On Application to Commissioners, Secretary to make search.

One Guinea to be paid, on each Application, to each Commissioner.

any other time or times within the hours aforesaid visit and inspect all such houses as often as they or any three or more of them shall think necessary, and shall have at all such times liberty and power to continue in such house and to examine the persons confined as lunatics therein, for such time as they shall think proper.

XV. And be it further enacted, That the said commissioners or their secretary shall at every such visitation make minutes in writing of the state and condition of all such houses which they shall so visit as to the care of the patients therein and all such other particulars as they shall think deserve their notice, together with their observations thereupon; all which minutes shall within one week next after such visitation be by the said secretary entered by way of report in a register to be kept by him in the said College of Physicians for that purpose, and the same shall be read to and signed by the said commissioners or any three or more of them at their next meeting; but no minute which tends to impeach the character of any house shall be so entered, unless such minute shall have been previously signed by three or more of the said commissioners who shall have been present at such visitation; and in case the commissioners upon their visitation shall discover any thing that in their opinion shall deserve censure or animadversion, they shall in that case report the same; and such part of their report and no more shall be hung up in the censors' room of the college, to be perused and inspected by any person who shall apply for that purpose.

XVI. And be it further enacted, That in case the keeper of any house or place for the reception of lunatics within the cities of *London* or *Westminster* or within seven miles distance thereof or within the county of *Middlesex* shall refuse all or any of the said commissioners at the time of their visitation admittance into such house or place as aforesaid with or without their secretary, the master or keeper of such house or place shall for such offence forfeit his licence.

XVII. And be it further enacted, That the said commissioners or any three or more of them shall from time to time cause an exact account to be kept of all their proceedings; and all such accounts shall be entered in the same register as the minutes taken at their visitations are directed to be entered as aforesaid; and the said register shall be lodged in the College of Physicians in a strong chest or box, which said chest or box shall be under the care of the beadle or housekeeper belonging to the said college, and shall be carefully locked up from time to time by the secretary to the said commissioners and the key thereof kept by such secretary; which said register shall be deemed to belong to the said commissioners, and the key of the said chest or box shall be delivered over to every succeeding secretary whenever the former secretary shall go out of office, and be kept by such succeeding secretary in manner aforesaid for the use of the said commissioners.

XVIII. Provided always, That the president of the said college shall have liberty to inspect the said register from time to time as often as he shall think proper, provided such inspection be made at the college and in the presence of the secretary to the said commissioners.

XIX. And be it further enacted, That if any person shall apply to one of the commissioners in order to be informed whether any particular person or persons have been confined in any of the said licensed houses, and the said commissioners shall think it reasonable to permit such inquiry to be made, and shall sign an order directed to the secretary for that purpose; he the said secretary is hereby required upon the receipt of such order to make search upon his papers: and if it shall appear upon such search that the person or persons so inquired after have been confined in any of the said houses, the said secretary shall immediately acquaint the persons so applying with the name of the keeper in whose house and also the names of those by whose direction and advice such person or persons have been so confined.

XX. And be it further enacted, That the said treasurer shall and is hereby required to pay to each of the said commissioners for every time

they shall in obedience to this Act or any requisition therein contained visit and inspect any such licensed house or place as aforesaid within the limits aforesaid the sum of one guinea; and shall also pay and discharge all such reasonable expences of the said commissioners as they shall from time to time incur in the execution of this Act; and the said treasurer is hereby required from time to time to keep an exact and true account of all monies by him received and disbursed in relation to this Act, and shall enter such account in a book to be kept for that purpose; which book shall be lodged in the box or chest where the register of the proceedings of the said commissioners is directed to be kept as aforesaid; which accounts shall be produced to the president of the said college when required by the said president and elects to be examined and settled by them: and if upon such examination the said accounts shall appear to be just and reasonable, the same shall be allowed and signed by the said president and at least four of the elects, and shall be by the said president reported, together with the other accounts at the next general meeting of the said college; and the said account being so allowed signed and reported, shall be a full discharge to the said treasurer for so much money as shall in such account appear to have been disbursed by him on account of the execution of this Act.

XXI. 'And in order that the said commissioners may know when any patient is received into any such licensed house or place as aforesaid,' Be it further enacted by the authority aforesaid, That the keeper of every such licensed house or place within the said cities of *London* and *Westminster* and within seven miles of the same and within the said county of *Middlesex* is hereby required within the space of three days after any patient shall be received into any such licensed house or place (except such pauper lunatics as shall happen to be sent there by parish officers) to cause notice thereof to be given to the secretary to the said commissioners, which notice shall contain the name of every such person received as a lunatic into such house or place, the name or names and place or places of abode of the person or persons by whose direction such lunatic was sent to such house or place, and also the name and place of abode of the physician surgeon or apothecary by whose advice such direction was given; all which notices shall be sent sealed up, directed *To the Secretary to the Commissioners for licensing Houses for the Reception of Lunatics:—To be left with the Beadle of the College of Physicians in London:* all which notices the said beadle is hereby directed to receive and to deliver to the said secretary within two days after the same shall come to his hands; and the secretary is hereby required to file and preserve all such notices, and also to enter or cause a copy or extract thereof to be entered in the register within two days after the receipt of such notices; and every keeper of any such licensed house or place who shall admit harbour entertain or confine any person as a lunatic without having an order in writing under the hand and seal of some physician surgeon or apothecary, that such person is proper to be received into such house or place as a lunatic, or shall receive any lunatic into any such house or place having such order, and shall not give notice thereof to the secretary of the said commissioners within the time and in the manner aforesaid, shall forfeit and pay the sum of one hundred pounds.

Notice to be given, within Three Days after Admission of Patients, by the Keeper.

How to be directed.

Keepers admitting Lunatics without an Order forfeit 100*l*.

XXII. 'And, in order that such houses or places for the reception of lunatics as are not situated within the limits aforesaid may be put under some regulation,' Be it further enacted, That no house which is not within the said city of *London* or within seven miles of the same or within the said county of *Middlesex* shall be kept for the reception of more than one lunatic, unless such house or place shall be licensed by the justices of the peace at some quarter sessions of the peace to be holden for the county or place wherein such house or place shall be situated.

No more than one Lunatic to be kept in any House, &c.

XXIII. And be it further enacted, That the justices of the peace at any general quarter sessions of the peace to be holden for any such county or place are hereby authorised and required to grant licences to

Quarter Sessions; and receive, &c.

Justices to grant Licences at General Quarter Sessions; and receive, &c.

No. II.

14 Geo. III.
c. 49.

No. II.
14 Geo. III.
c. 49.

such person and persons as shall apply for that purpose, such person or persons paying for each licence the sums following; (that is to say), for each and every house wherein there shall be kept any number of lunatics, not exceeding ten, the sum of ten pounds and no more; and for each and every house wherein there shall be kept above the number of ten lunatics the sum of fifteen pounds and no more; and that no one licence shall authorise any person or persons to keep more houses than one for the reception of lunatics, nor shall any such licence be granted for any longer term than for one year; and the said justices shall at the time of granting such licences as aforesaid nominate and appoint two justices of the peace for the said county and also one physician to visit and inspect all such houses as shall be licensed by such justices as aforesaid; and the said justices and physicians so nominated and appointed, or any two of them, whercof the physician to be one, may and are hereby authorised and empowered to visit in the day-time every house so licensed within the county where such house or place shall be so licensed, as often as they shall think fit.

Justices, at Visitation, to make Minutes, &c.

XXIV. And be it further enacted, That the said justices and physician so nominated, or such of them as shall visit any licensed house as aforesaid, may at every visitation if they think necessary make or cause to be made minutes in writing of the state and condition of every house which they shall visit as to the care of the patients therein, and all such other particulars as they shall think deserve their notice, together with their observations thereupon; all which minutes shall be entered by way of report in a register to be kept for that purpose by the clerk of the peace for the county where such house or houses shall be licensed as aforesaid, a copy whereof shall from time to time be sent by the said clerk of the peace to the secretary to the said commissioners, to be by him inserted in a separate register; which register shall be kept in the same box and in the same manner as the register belonging to the said commissioners is herein-before directed to be kept; and the said clerk of the peace shall be paid such sum and sums of money for his trouble in the execution of this Act as the said justices shall order and direct; and all money to be paid for such licences as shall be granted by the said justices of the peace as aforesaid shall be paid to the clerk of the peace as aforesaid, who shall keep an account thereof in a book or books to be kept for that purpose, and shall account for the same to the said justices as often as he shall be required so to do; and all expences attending the execution of this Act (except within the cities of *London* and *Westminster* and within seven miles thereof and also except within the said county of *Middlesex*) shall be defrayed out of such money as aforesaid, in such manner as the said justices shall from time to time within their respective counties order and direct.

Clerk of the Peace to take Oath.

XXV. And be it further enacted, That at such general quarter session, when such justices and physicians shall be appointed as aforesaid, the clerk of the peace shall take the like oath as is appointed by this Act to be taken by the secretary of the commissioners.

Keepers refusing Admittance forfeit Licence.

XXVI. And be it further enacted, That in case the keeper of any house or place for the reception of lunatics, not being within the said city of *London* or *Westminster* or within seven miles of the same or within the said county of *Middlesex*, shall in the day-time refuse the said justices and physician, on such visitation, admittance at any time or times into such house or place as aforesaid, the master or keeper of such house or place shall for such offence forfeit his licence.

If Keeper do not give Notice of the Receipt of a Lunatic, within 14 Days, he forfeits 100*l*.

XXVII. And be it further enacted by the authority aforesaid, That the keeper of any house or place for the reception of lunatics, not being within the said city of *London* or *Westminster* or within seven miles of the same or within the said county of *Middlesex*, shall and is hereby required to give notice as aforesaid, of the receipt of every such lunatic (except such pauper lunatics as shall happen to be sent there by parish officers) to the secretary to the commissioners at the College of Physicians aforesaid within the space of fourteen days from the time of such luna-

tic's being received into any such house or place; and every keeper of any such licensed house or place who shall admit harbour entertain or confine any person as a lunatic without having an order in writing under the hand and seal of some physician surgeon or apothecary that such person is proper to be received into such house or place as a lunatic, or shall receive any lunatic into any such house or place having such order, and shall not give notice thereof to the secretary of the said commissioners, within the time and in the manner aforesaid, shall forfeit and pay the sum of one hundred pounds.

XXVIII. And be it further enacted, That no such licence shall be granted as aforesaid, either by the said commissioners or justices of the peace as aforesaid, unless upon granting such licence the person to whom such licence is granted shall enter into recognisance to the King's Majesty his heirs and successors in the sum of one hundred pounds, with two sufficient sureties each in the sum of fifty pounds, or one sufficient surety in the sum of one hundred pounds, under the usual conditions for the good behaviour of such persons during the time for which such licence shall be granted.

XXIX. And be it further enacted by the authority aforesaid, That the Lord High Chancellor of *Great Britain* or Lord Keeper or the Commissioners for the custody of the Great Seal or the Lord Chief Justice of the Court of King's Bench or the Lord Chief Justice of the Court of Common Pleas for the time being may at any time or times by any written order directed to the commissioners appointed by this Act, or to the justices of the peace and physician appointed visitors at any general quarter session, require the said commissioners or any three or more of them or the said visitors or any two of them to visit or inspect any house or houses so licensed; and also to make a report to him or them touching such matters as they shall in such orders be directed to inquire into or as they shall think deserving his or their lordships notice; and the said Lord High Chancellor or Lord Keeper or Commissioners for the custody of the Great Seal or Lord Chief Justice of the Court of King's Bench or the Lord Chief Justice of the Court of Common Pleas may also at any time or times by a like order send for and inspect the register or registers so to be kept as aforesaid; and may summon and examine all or any of the persons concerned in the execution of this Act as often as shall be thought necessary and proper; in case they or any of them shall not obey all such orders as aforesaid within two days after the receipt of the same, and shall not shew sufficient cause to the contrary, every person so offending shall be deemed guilty of a contempt of the Court of Chancery Court of King's Bench or Court of Common Pleas, as the case shall be.

XXX. Provided always and it is hereby declared, That nothing in this Act contained shall extend or be construed to extend to any of the public hospitals within this kingdom.

XXXI. ' And whereas it is not intended by this Act to give the keepers of any house or houses so to be licensed as aforesaid, or any other person concerned in confining any of his Majesty's subjects therein, any new justification from their being able to prove that the persons so confined have been sent there by such direction and advice as are required by this Act.' Be it therefore declared and enacted, That in all proceedings that shall be had under his Majesty's writ of *Habeas Corpus*, and in all indictments informations and actions that shall be preferred and brought against any person or persons for confining or ill treating any of his Majesty's subjects in any of the said houses, the parties complained of shall be obliged to justify their proceedings according to the course of the common law, in the same manner as if this Act had not been made.

XXXII. And be it further enacted by the authority aforesaid, That all penalties and forfeitures which shall be incurred within the said cities of *London* or *Westminster* or within seven miles of the same or within the said county of *Middlesex* for offences against this Act shall and may be sued for and recovered in any of the courts of record at *Westminster*, by

No. II.

14 Geo. III.
c. 49.

No Licence to be granted without Recognisance.

Chancellor to order Commissioners, or Justices, to inspect licensed Houses, and to make Report, &c.

Proceedings to be justified in course of Common Law.

Penalties and Forfeitures.

No. II.
14 Geo. III.
c. 49.

action of debt bill plaint or information by the president of the said college for the time being, in the name of the treasurer belonging to the said college at any time within six calendar months after the offence committed; and all such penalties and forfeitures when recovered shall and are hereby directed to be paid to the said treasurer, and shall be applied (except such penalties and forfeitures as are otherwise directed to be applied by this Act) in manner following; (that is to say), one moiety of all such penalties and forfeitures shall go to the informer, and the other moiety towards defraying the expences attending the execution of this Act: and all penalties and forfeitures which shall be incurred for offences against this Act, not within the said cities of *London* or *Westminster* or within seven miles of the same or within the said county of *Middlesex*, shall and may be sued for and recovered by action of debt bill plaint or information by and in the name of the clerk of the peace for the county where any such offence shall be committed; and all such penalties and forfeitures when recovered shall be applied one moiety to the informer and the other moiety for defraying the expences attending the execution of this Act within such county.

Limitation of
Actions.

XXXIII. And be it further enacted, That if any action or suit shall be commenced or brought against any person or persons for any thing done in pursuance of this Act the same shall be commenced within six calendar months next after the fact committed; and shall be laid or brought in the county city or place where the cause of action shall have arisen and not elsewhere; and the defendant or defendants in every such action or suit shall and may at his election plead specially or the general issue not guilty; and give this Act and the special matter in evidence at any trial to be had thereupon, and that the same was done in pursuance and by the authority of this Act: and if the same shall appear to be so done, or that such action or suit shall be brought in any other county city or place, or shall not have been commenced within the time before limited for bringing the same, that then the jury shall find a verdict for the defendant or defendants; and upon a verdict being so found, or if the plaintiff or plaintiffs shall be nonsuited, or discontinue his her or their action or suit after the defendant or defendants shall have appeared; or if upon demurrer judgment shall be given against the plaintiff or plaintiffs, then the defendant or defendants shall recover treble costs, and have such remedy for recovering the same as any defendant or defendants hath or have in any other cases by law.

General Issue.

Treble Costs.

Public Act.

XXXIV. And be it further enacted, That this Act shall be deemed and taken to be a public Act; and be judicially taken notice of as such by all judges justices and other persons whomsoever without specially pleading the same.

Continuance of
this Act.

XXXV. And be it further enacted by the authority aforesaid, That this Act shall continue in force for the term of five years, and from thence to the end of the then next session of Parliament. [Made perpetual 26 Geo. III. c. 91.]

[No. III.] 39 & 40 Geo. III. c. 94.—An Act for the safe Custody of Insane Persons charged with Offences.
[28th July 1800.]

39 & 40
George III.
c. 94.

The Jury, in
case of any Per-
son charged
with Treason,
&c. proving

to be insane, shall declare whether he was acquitted by them on account of Insanity, and the Court shall order him to be kept in Custody till his Majesty's Pleasure be known, and his Majesty may give an Order for the safe Custody of such insane Person, &c.

‘ WHEREAS persons charged with high treason murder or felony
‘ may have been or may be of unsound mind at the time of com-
‘ mitting the offence wherewith they may have been or shall be charged,
‘ and by reason of such Insanity may have been or may be found not
‘ guilty of such offence, and it may be dangerous to permit persons so
‘ acquitted to go at large:’ Be it therefore enacted by the King's most
‘ excellent Majesty, by and with the advice and consent of the Lords
‘ Spiritual and Temporal and Commons in this present Parliament assem-

bled, and by the authority of the same, That in all cases where it shall be given in evidence upon the trial of any person charged with treason murder or felony that such person was insane at the time of the commission of such offence and such person shall be acquitted, the jury shall be required to find specially whether such person was insane at the time of the commission of such offence and to declare whether such person was acquitted by them on account of such insanity; and if they shall find that such person was insane at the time of the committing such offence, the court before whom such trial shall be had shall order such person to be kept in strict custody in such place and in such manner as to the court shall seem fit until his Majesty's pleasure shall be known; and it shall thereupon be lawful for his Majesty to give such order for the safe custody of such person during his pleasure in such place and in such manner as to his Majesty shall seem fit; and in all cases where any person before the passing of this Act has been acquitted of any such offences on the ground of insanity at the time of the commission thereof, and has been detained in custody as a dangerous person by order of the court before whom such person has been tried and still remains in custody, it shall be lawful for his Majesty to give the like order for the safe custody of such person during his pleasure as his Majesty is hereby enabled to give in the cases of persons who shall hereafter be acquitted on the grounds of insanity.

II. And be it further enacted, That if any person indicted for any offence shall be insane, and shall upon arraignment be found to be by a jury lawfully impannelled for that purpose, so that such person cannot be tried upon such indictment, or if upon the trial of any person so indicted such person shall appear to the jury charged with such indictment to be insane, it shall be lawful for the court before whom any such person shall be brought to be arraigned or tried as aforesaid to direct such finding to be recorded, and thereupon to order such person to be kept in strict custody until his Majesty's pleasure shall be known; and if any person charged with any offence shall be brought before any court to be discharged for want of prosecution, and such person shall appear to be insane, it shall be lawful for such court to order a jury to be impannelled to try the sanity of such person; and if the jury so impannelled shall find such person to be insane, it shall be lawful for such court to order such person to be kept in strict custody in such place and in such manner as to such court shall seem fit until his Majesty's pleasure shall be known; and in all cases of insanity so found, it shall be lawful for his Majesty to give such order for the safe custody of such person so found to be insane, during his pleasure, in such place and in such manner as to his Majesty shall seem fit.

III. 'And, for the better prevention of crimes being committed by persons insane,' Be it further enacted, That if any person shall be discovered and apprehended under circumstances that denote a derangement of mind and a purpose of committing some crime, for which if committed such person would be liable to be indicted, and any of his Majesty's justices of the peace before whom such person may be brought shall think fit to issue a warrant for committing him or her as a dangerous person suspected to be insane, such cause of commitment being plainly expressed in the warrant, the person so committed shall not be bailed except by two justices of the peace, one whereof shall be the justice who has issued such warrant, or by the court of general quarter sessions, or by one of the judges of his Majesty's courts in *Westminster Hall*, or by the lord chancellor, lord keeper, or commissioners of the great seal.

IV. 'And whereas insane persons have, at different times, endeavoured to gain admittance to his Majesty's presence, by intrusion on his Majesty's palaces and places of residence and otherwise, and his Majesty's person may be endangered by reason of the insanity of such persons:'

may cause Persons appearing to be insane and endeavouring to gain Admittance to his Majesty to be kept in Custody till the Insanity of such Persons be inquired into, and such Persons may be committed and discharged in Manner herein directed, &c.

No. III.

39 & 40

Geo. III.

c. 94.

Insane Persons indicted for any Offence, and found to be insane by a Jury to be impannelled on their Arraignment, &c. shall be ordered by the Court to be kept in Custody till his Majesty's Pleasure be known, &c.

Persons committed by any Justice on account of being dangerous and insane shall not be bailed except by two Justices, (one being the Justice committing), or by the Quarter Sessions, or one of the Judges.

The Privy Council or one of the Secretaries of State

No. III.
39 & 40
Geo. III.
c. 94.

Be it therefore enacted, That if any person who shall appear to be insane shall endeavour to gain admittance to his Majesty's presence by intrusion on any of his Majesty's palaces or places of residence or otherwise, so that there may be reason to apprehend that his Majesty's person may be endangered, it shall be lawful for his Majesty's Privy Council or one of his Majesty's Principal Secretaries of State to cause such person to be brought before them or him; and if upon examination it shall appear that there is reason to apprehend such person to be insane and that the person of his Majesty may be endangered by reason of the insanity of such person, it shall be lawful for his Majesty's Privy Council or one of his Majesty's Principal Secretaries of State to order such person to be kept in safe custody in such place and in such manner as according to circumstances shall be ascertained; and for such purpose it shall be lawful for the lord chancellor lord keeper or lords commissioners for the custody of the great seal of *Great Britain* to award a commission under the said great seal, directed to certain commissioners to be therein named, to inquire into the sanity of such person, and whether the person of his Majesty may be endangered by reason of the insanity of such person, and for such purpose to direct the sheriff of the county where such person shall be to summon a jury to try the sanity of such person, and whether his Majesty's person may be endangered by reason of the insanity of such person, in the same manner as juries are summoned to try the sanity of persons on a commission in the nature of a writ *de lunatico inquirendo*; and if upon the inquisition so taken it shall be found that such person is so far insane that the person of his Majesty may be endangered by reason of the insanity of such person, it shall be lawful for the lord chancellor lord keeper or lords commissioners for the custody of the great seal for the time being to take order for the safe custody of such person so long as there shall be reason to apprehend that the person of his Majesty may be endangered by reason of the insanity of such person; and if it shall afterwards appear that such person shall have recovered the use of his or her reason, so that there shall be no longer any reason to apprehend any danger to his Majesty's person from the insanity of such person, it shall be lawful for the lord chancellor lord keeper or lords commissioners for the custody of the great seal for the time being, to inquire into the fact by such means as to him or them shall seem proper; and if it shall appear to his or their satisfaction that such person has so far recovered the use of his or her reason that there is no ground for apprehending any danger to his Majesty's person from the insanity of such person, it shall be lawful for the said lord chancellor lord keeper and lords commissioners respectively to direct such person to be discharged from custody, either absolutely or conditionally, or under restrictions, as to him or them shall seem meet.

[No. IV.] 48 George III. c. 96.—An Act for the better Care and Maintenance of Lunatics, being Paupers or Criminals in *England*.—[23d June 1808.]

48 George III.
c. 96.

Justices in Sessions may give Notice of their Intent to erect Lunatic Asylums.

‘ WHEREAS the practice of confining such lunatics and other insane persons as are chargeable to their respective parishes in gaols houses of correction poor houses and houses of industry is highly dangerous and inconvenient: And whereas it is expedient that further provision should be made for the care and maintenance of such persons and for the erecting proper houses for their reception, and also for erecting additional buildings adjoining or contiguous thereto for the reception of other lunatics: And whereas it is also expedient that further provision should be made for the custody of insane persons who shall commit criminal offences;’ Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That it shall and may be lawful for the justices of the peace in and for every county within *England* and *Wales*,

at their respective general quarter sessions of the peace or any adjournment of the same or the major part of such justices then and there assembled, to direct notice to be given in some public newspaper or newspapers circulated in or near such county of their intention of taking into consideration, at their next general quarter or general annual sessions, the expediency and propriety of providing a lunatic asylum or house for the reception of lunatics and other insane persons within the said county, or of appointing a committee of magistrates to treat with any one or more of the adjacent counties to unite for that purpose.

II. And be it further enacted, That the said justices of the peace after such notice being given as aforesaid shall at their next general quarter or general annual sessions proceed to take the same into consideration; and if it shall appear to the major part of the said justices being then and there assembled, such major part not being less in number than seven, that it is expedient that a lunatic asylum or house for the reception of lunatics and other insane persons should be erected in and for the said county sole, the said justices shall nominate and appoint such number of visiting justices as they may think fit to superintend the building erection and management of such lunatic asylum and from time to time to report the state of their proceedings to the court of the general quarter sessions.

III. And be it further enacted, That in all cases where it shall appear expedient to the justices of the peace in and for any county to unite with any one or more adjacent county or counties for the purposes of this Act, and for the providing a lunatic asylum to serve for the said several counties, it shall and may be lawful for the said justices at their respective general quarter sessions (whereof due notice shall be given as aforesaid) to nominate and appoint any number of justices, not exceeding five, to be a committee for treating with any adjacent county or counties for that purpose.

IV. And be it further enacted, That where the committees of justices so appointed by any two or more counties shall think fit to unite the said counties for the purposes of this Act, and shall signify their inclination and desire so to do at a meeting holden for that purpose, an agreement shall at such meeting, or as soon as conveniently may be afterwards be entered into by the said justices so appointed as aforesaid, or the major part of them, in the form or to the effect set forth in the schedule hereunto annexed (No. 1.); which agreement when subscribed by the major part of the justices so nominated and appointed for each county shall be binding upon the said counties; and every such agreement shall specify the place at or near which such lunatic asylum shall be situate, and the proportions in which the expences necessary for the carrying into execution the purposes of this Act shall be charged and assessed upon the several counties so uniting, which proportions shall be calculated by the said justices so appointed upon the numbers of the respective population of the said several counties as stated in the returns to an Act, passed in the forty-first year of his Majesty's reign, intituled, "An Act for taking an Account of the Population of *Great Britain*, and of the Increase and Diminution thereof;" and the said agreement shall also specify the number of visiting justices to superintend the building erection and management of the said lunatic asylum to be appointed by each of the respective counties so uniting, which number shall be in proportion to the share of the expences so to be charged and assessed upon each of such respective counties, but so that a number less than three shall in no case be appointed for any county so united.

V. And be it further enacted, That whensoever such agreement shall have been so entered into and signed as aforesaid the justices so appointed to be a committee for each county so uniting shall respectively report the same to the justices of the peace at their next general quarter sessions to be holden for each of the said counties, and shall then and there deliver into court a duplicate of the said agreement to be by the clerks of the peace of the said counties entered among the records; and that the said justices shall then and there immediately proceed to nominate such number of persons as by the said agreement they may be en-

No. IV.

48 Geo. III.
c. 96.

Justices of any
County may
contract; and
appoint Visiting
Justices for
such Asylums.

Committee of
Justices to unite
Counties for
such Purpose.

Agreement to
be entered into,
when Counties
shall be united.

Sched. (No. 1.)

in proportion to
the Population
as returned under
41 Geo. 3.
(G. B.) c. 15.

Such Agree-
ment shall be
reported at
Quarter Ses-
sions.

No. IV.
48 Geo. III.
c. 96.

Visiting Jus-
tices empower-
ed to contract.

Appointment of
Clerk and Sur-
veyor.

Contracts.

Report to Ses-
sions.

Expences shall
be defrayed, as
County Rates,
under 12 Geo. 2.
c. 20. 13 Geo. 2.
c. 18.

Justices em-
powered to bor-
row Money on
Mortgage of
Rates.

titled to appoint to be visiting justices of the said asylum till the next *Michaelmas* general quarter sessions, and shall continue annually to ap-
point such number of visiting justices at each *Michaelmas* general quarter sessions.

VI. And be it further enacted, That the said visiting justices so no-
minated and appointed by such county sole or such united counties are
hereby authorised and required within two calendar months after such
nomination and appointment as aforesaid to meet and assemble at such
place as shall appear to them most convenient for that purpose (due no-
tice thereof being previously given to such visiting justices by the clerk or
clerks of the peace of such county or counties respectively) and that the
said visiting justices may adjourn the said meeting from time to time or
from place to place and meet as often as they shall think necessary; and
the said visiting justices or the major part of them are hereby authorised
at their said meetings to appoint a clerk and a surveyor for duly exercis-
ing the powers of this Act, and from time to time to receive plans and
estimates and contract for the purchase of lands and buildings or for the
alteration of any building already belonging to such county or any of
such united counties and for building erecting altering furnishing and
completing such lunatic asylum and the yards courts and outlets thereto
belonging, and such contract or contracts shall be made and entered into
at the most reasonable rates and with the most responsible persons; and
every such contractor shall give sufficient security for the due perform-
ance of his contract to the clerk to such visiting justices; and all con-
tracts when made and all orders relating thereto shall be entered in a
book to be kept by the clerk to such visiting justices, and when such
asylum shall be declared to be completed in manner herein-after directed
then such books shall be deposited and kept among the records of such
county sole or of such of the counties so united for the purposes of this Act as
shall have paid the largest quota or proportion of the expences of providing
such asylum to be inspected at all reasonable times by any person contri-
buting to the county rates of such county or counties respectively; and
all buildings or land so to be contracted for and purchased shall be con-
veyed to such person or persons as the visiting justices shall think fit in
trust for the uses and purposes of this Act; and the said visiting justices
shall from time to time make their report to the general quarter sessions
of the peace of such county or counties respectively of the several plans
estimates and contracts which shall have been made and entered into in
manner aforesaid, and also a report of the sum or sums of money neces-
sary to be raised and levied on such county sole as the expence or on each
of such united counties as the quota or proportion of the expence to be
incurred on the several accounts aforesaid.

VII. 'And in order to defray the expences necessary for the execution
' of this Act,' Be it further enacted, That the justices of the peace at
their general quarter sessions may and shall cause such sums of money
as shall have been from time to time reported to them to be necessary for
that purpose by the visiting justices to be raised in such manner as rates
are directed to be raised by two Acts made in the twelfth and thirteenth
years of his late Majesty King *George* the Second, for the more easy as-
sessing collecting and levying of county rates, or shall order and direct the
same to be paid out of the ordinary rate of such county.

VIII. 'And whereas the expences of carrying this Act into execution
' may in some cases become very burthensome on the occupiers of land
' and other the contributors to the county rates, in case the said expences
' should be raised in the manner herein-before mentioned,' Be it there-
fore enacted, That when it shall appear on the report of such visiting
justices that the charge and costs of carrying this Act into execution will
exceed one half of the amount of the ordinary annual assessment for the
county rate for any county (such ordinary assessment to be taken on a
mean proportion of the said rate for the last five years preceding) that
then and in such case it shall and may be lawful for the justices of the peace
within the respective limits of their commissions so assembled in their
quarter sessions as aforesaid from time to time to borrow and take up on

mortgage of the rates herein mentioned, by instruments in the form contained in the schedule hereunto annexed (No. 2.) or to that or the like effect, any sums not less than fifty pounds each at legal or lower interest as to them or the major part of them (such major part not being less than five) shall appear necessary and expedient for the purposes aforesaid, and to secure all and every such sum and sums of money so borrowed upon the credit of the rates to be raised upon such county respectively; and the said justices so assembled as aforesaid are hereby authorised to treat and agree with any person or persons for the loan of any such sum or sums of money and by their order to confirm and establish every such agreement as aforesaid; and every such agreement so established by such order and signed by the chairman and two or more justices present at the time of making such order shall be and the same is hereby declared to be effectual for securing to the person or persons so advancing any sum or sums of money his her or their executors administrators and assigns all and every such sum or sums of money with interest for the same on such terms as in and by such agreement or agreements respectively shall be for that purpose stipulated; and the said securities shall be numbered in order of succession in which they shall be granted, and copies or extracts of all such agreements or securities shall be kept with the clerk of the peace or other proper officer having the custody of the records of the quarter sessions of such county respectively; and all and every person and persons to whom any such security or securities shall be made or who shall be entitled to the money thereby secured is and are hereby empowered (by indorsing his her or their name or names on the back of such security or securities) to transfer and assign the same and his her or their right to the principal money and interest thereby secured unto any person or persons; and every such assignee may in like manner transfer the same again and so *toties quoties*; and the person or persons to whom such security or securities or any such assignment thereof shall be made, and his or their respective executors administrators and assigns shall be creditors upon the said rates in an equal degree one with another and shall not have any preference with respect to the priority of any monies so advanced.

IX. And be it further enacted, That the said justices are hereby authorised and required not only to charge the rates to be raised upon such county with the interest of the money so borrowed upon such securities, but also with the payment of a further sum equal at least with the sum so charged for the interest of such securities, which said sums shall be assessed on such county in such manner as county rates are directed to be assessed by the laws now in being and paid and applied under the direction of the said justices in discharge of the interest and of so many of the principal sums on the said securities as such money will extend to discharge in each year, until the whole of the money for which such securities shall be made and the interest thereof shall be fully paid and discharged; and the said justices are required to fix one or more days in each year on which such payment shall be made and shall make orders for assessments in due time so as to provide for the regular payment thereof; and they are hereby required to appoint a proper person to keep an exact and regular account of all the receipts and payments under the authority of this Act in a book or books separate and apart from all other accounts and the same to adjust and settle in such manner that it may easily be seen what interest is growing due and what principal money has been discharged and what remains due, and the said book or books so adjusted and settled to deliver into court at every general annual or *Michaelmas* quarter sessions to be held for any such county; and the said justices are required at every such sessions carefully to inspect all such accounts and make orders for carrying the several purposes of this Act into execution in such manner as to them shall seem meet; and if at any time it shall appear to the said justices that the person so appointed has neglected the said order and has not duly and without delay applied the money in his hands to the purposes hereby directed, such person shall forfeit double the amount of the money which shall not have been applied to the pur-

No. IV.

48 Geo. III.
c. 96.

Sched. (No. 2.)

For charging
the Rate with a
Sinking Fund to
reduce the
Principal bor-
rowed.

Accounts of
Receipts and
Payments.

No. IV.

48 Geo. III.
c. 96.Money bor-
rowed shall be
repaid within
14 Years.Corporations,
Guardians,
Trustees, &c.
empowered to
convey Lands.Application of
Purchase Mo-
ney for Lands
in Settlement,
&c.

poses of this Act, to be recovered by distress and sale of the offender's goods and chattels by warrant under the hands and seals of such justices; and the said penalty after the charges of recovering the same shall be paid to the treasurer of the said asylum to be applied to the use of the same: and the said justices on a day and hour to be fixed at some general quarter or annual sessions of the peace to be holden for such county, of which fourteen days public notice shall be given as aforesaid) shall in open court cause all the said several securities to be drawn by lot and numbered for payment according to the event of such drawing, and the securities so drawn and numbered shall be regularly discharged in succession according to priority of such drawn number.

X. Provided always and be it further enacted, That the justices of the peace in their respective quarter sessions shall and they are hereby required to make provisions by means of the rates (which they are hereby authorised to make) and by their orders and directions (which they are hereby authorised to give) in such manner that the whole money to be borrowed under the authority of this Act shall be fully paid and discharged within a time to be limited not exceeding fourteen years from the time of borrowing the same.

XI. And be it further enacted, That it shall and may be lawful for the King's most excellent Majesty his heirs and successors, and for all bodies politic and corporate, and also for all guardians committees husbands trustees and attornies of any person or persons being infants lunatics idiots under coverture or any other disability, and also for all other persons who are or shall be seized possessed of or interested in any houses buildings lands tenements hereditaments easements or privileges which shall be deemed necessary for the purposes of this Act, to contract or agree for and to sell convey and assure such houses buildings lands tenements hereditaments easements and privileges unto such person or persons as shall be named by the visiting justices in trust and for the purpose of erecting or providing such lunatic asylum and the yards courts and outlets thereunto belonging; and all such contracts agreements sales conveyances and assurances shall be valid and effectual in law to all intents and purposes whatsoever; any law statute usage or custom to the contrary notwithstanding.

XII. And be it further enacted, That all sums of money which shall be agreed to be paid to any corporation guardian committee husband trustee or attorney for or on behalf of any infants lunatics idiots femmes covert or cestuique trusts, or to any other person or persons whose houses buildings lands tenements hereditaments easements and privileges shall be limited in settlement for the purchase of any such lands tenements and hereditaments, shall in case such sums of money shall exceed the sum of one hundred pounds be laid out by such corporations guardians committees husbands trustees or attornies or any person or persons seized of such houses buildings lands tenements hereditaments easements or privileges so limited in settlement as soon as conveniently may be in the purchase of lands tenements and hereditaments in fee-simple, to be conveyed to or to the use of such corporations guardians committees husbands trustees or attornies and to and for such person or persons and for such estate and estates and to for and upon and subject to such uses limitations remainders and contingencies as the houses buildings lands tenements hereditaments easements or privileges for and in respect whereof such purchase money shall be paid as aforesaid shall be limited settled and assured at the time such purchase or contract shall be made in manner aforesaid or such as shall then be capable of taking effect, the charges of such conveyances and settlements to be paid in the same manner as the other expences relating to the lunatic asylum; and in the mean time and till such purchase or purchases shall be made, such money whether the same shall or shall not exceed the sum of one hundred pounds shall be laid out by such corporations or other persons for the time being interested therein in some government securities in the names of two persons, one to be nominated by the party or parties for the time being interested therein and the other by the visiting justices aforesaid; and the interest

arising from such securities shall be paid to such person or persons respectively as would have been entitled to the rents and profits of such lands tenements hereditaments easements and privileges in case the same had not been sold, or would for the time being be entitled to the rents and profits of such lands tenements and hereditaments so to be purchased in case the same were purchased and settled as aforesaid.

No. IV.
48 Geo. III.
c. 96.

XIII. Provided always and be it further enacted, That no justice of the peace who shall under the authority of this Act do any matter or thing in the execution hereof shall be capable of having any beneficial interest or concern whatsoever, either in his own name or in the name of any other person in trust for him, in any contract or agreement to be made under the authority of this Act, or shall for any design or plan he may deliver or produce receive any benefit or emolument whatsoever.

Justices shall not be concerned in Contracts.

XIV. And be it further enacted, That the said visiting justices or any five or more of them shall and may and they are hereby authorised to empower their agents or workmen to dig take and carry away any soil clay sand gravel or stone, and to manufacture the same for the purpose of building carrying on finishing and completing such lunatic asylum or other buildings hereby directed to be built, out of upon or from any common or waste land river or brook without paying any thing for the same; they causing all pits or quarries made by such digging and taking to be filled up or railed and fenced so as not to be dangerous to passengers or cattle.

Digging for Materials.

XV. And be it further enacted, That the said visiting justices may sue and be sued in the name of their clerk, and that no action that may be brought or commenced by or against the said visiting justices or any of them by virtue of this Act, in the name of their clerk, shall abate or be discontinued by the death or removal of such clerk or by the act of such clerk without the consent of the said visiting justices or any five or more of them; but the clerk to the said visiting justices for the time being shall always be deemed plaintiff or defendant in such action as the case shall be.

Justices may sue in the Name of their Clerk.

XVI. And be it further enacted, That the said visiting justices, as well in the choice of ground and of situation as in determining upon the plans for building or for purchasing and altering buildings for such lunatic asylums, shall as far as conveniently may be fix upon an airy and healthy situation with a good supply of water and which may afford a probability of the vicinity of constant medical assistance, and pursue such measures and adopt such plans as shall provide separate and distinct wards for male and female lunatics and also for the convalescents and incurables, and also separate and distinct day rooms and airing grounds for the male and female convalescents and dry and airy cells for the lunatics of every description.

Regulations for the Situation of Lunatic Asylums.

XVII. And be it further enacted, That so soon as any lunatic asylum so erected as aforesaid shall be declared by the visiting justices to be completed and in a fit state for the reception of lunatics and other insane persons, whereof due notice shall be given three times at the least in some publick newspaper or newspapers circulating in the county or district of counties united for the purposes of this Act, the justices of the peace acting respectively in and for any county or counties at the expence of which such asylum shall have been built are hereby authorised and directed to issue warrants upon the application of the overseers of the poor of any parish situate within such county or district of counties for the conveyance of any lunatic insane person or dangerous idiot who may be chargeable to such parish to such asylum, there to be safely kept until he or she shall be duly discharged as hereinafter directed; and at the time of such issuing such warrant every such justice shall also make an order upon the overseers of the poor of the parish to which such lunatic insane person or dangerous idiot shall belong, to pay such weekly sum to the treasurer of such asylum as shall from time to time be fixed upon by the visiting justices as a fit rate for the maintenance medicine clothing and care of such persons.

Justices shall by Warrant remove into such Asylum lunatic Paupers, and the Parish chargeable shall pay the Asylum a weekly Allowance for them.

XVIII. And be it further enacted, That if any overseer of the poor of Overseer neglecting to give Information to Justice of lunatic Paupers, 10*l*. to 40*s*.

Penalty on any

No. IV.

48 Geo. III.

c. 96.

any parish shall wilfully neglect or delay to give information to such justice of the peace of any such lunatic or insane person who shall be chargeable to such parish, or to make application for such warrant as aforesaid during the space of seven days from the time that he shall be acquainted that such person is so lunatic or insane, he shall for every such offence forfeit and pay a sum of money not exceeding ten pounds nor less than forty shillings, to be recovered by distress and sale of the offender's goods and chattels by warrant under the hands and seals of any two justices of the peace acting for the county within which such parish shall be situated, which warrant such justices are hereby required to grant upon the confession of the party or upon the information of any witness or witnesses upon oath (which oath such justices are hereby empowered to administer); and the said penalty, after the charges of recovering the same shall be deducted, shall be paid one moiety to the informer and the other to the treasurer of the said asylum, to be applied to the use of the same.

17 Geo. 2. c. 5.
§ 20.

XIX. 'And whereas by an Act passed in the seventeenth year of the reign of King George the Second, intituled "An Act to amend and make more effectual the Laws relating to Rogues, Vagabonds and other idle and disorderly Persons, and to Houses of Correction," it is among other things enacted, That whereas there are sometimes persons who by lunacy or otherwise are furiously mad or are so far disordered in their senses that they may be dangerous to be permitted to go abroad, it shall and may be lawful for any two or more justices of the peace where such lunatic or mad person shall be found, by warrant under their hands and seals directed to the constables churchwardens and overseers of the poor of the parish town or place or some of them, to cause such person so to be apprehended and kept safely locked up in some secure place within the county or precinct where such parish town or place shall lie, as such justices shall under their hands and seals direct and appoint, and if such justices find it necessary, to be there chained, if the last legal settlement of such person shall be in any parish town or place within such county or precinct; and if such settlement shall not be there, then such person shall be sent to the place of his or her last legal settlement by a pass *mutatis mutandis* as aforesaid, and shall be locked up or chained by warrant of two justices of the county or precinct to which such person is so sent in manner aforesaid; and the reasonable charges of removing and of keeping maintaining and curing such person during such restraint (which shall be for and during such time only as such lunacy or madness shall continue) shall be satisfied and paid, such charges being first proved upon oath, by order of two or more justices of the peace, directing the churchwardens or overseers where any goods chattels lands or tenements of such person shall be to seize and sell so much of the goods and chattels or receive so much of the annual rents of the lands and tenements as is necessary to pay the same, and to account for what is so seized sold or received to the next quarter sessions; but if such person hath not an estate to pay and satisfy the same over and above what shall be sufficient to maintain his or her family, then such charges shall be satisfied and paid by the parish town or place to which such person belongs, by order of two justices directed to the churchwardens or overseers for that purpose.' Be it enacted, That in case there shall be a lunatic asylum established under the directions of this Act for the county or district of united counties within which the parish to which any lunatic or mad person apprehended by virtue of the above recited Act belongs shall be situated, then such justices of the peace who shall by virtue of the above recited Act issue any warrant for the confinement of such lunatic or mad person shall in the body of such warrant so issued by them direct and order that such lunatic or mad person shall be confined in such lunatic asylum and not elsewhere; but if no such lunatic asylum shall have been established; then and in such case it shall and may be lawful for such justices if they think fit to order and direct by such warrant that such lunatic or mad person shall be confined in any

Justices committing Lunatics under recited Act shall send them to the Asylum of the County, or to House licensed under 14 Geo. 3. c. 49.

house duly licensed for the reception of lunatics under the authority of an Act passed in the fourteenth year of the reign of his present Majesty, intituled "An Act for regulating Mad-houses," although such house may not be situated within the county where the parish to which such lunatic or mad person belongs shall lie.

No. IV,
48 Geo. III.
c. 96.

XX. 'And whereas it sometimes happens that by reason of the lunacy and madness of such persons the place of their legal settlement cannot be ascertained; Be it enacted, That in case the place of the last legal settlement of any lunatic or mad person apprehended by virtue of the above recited Act cannot be ascertained, then the justices who shall have caused such person to be apprehended shall by their said warrant direct such person to be confined in the lunatic asylum for the county or district of united counties within which such person shall have been apprehended, if any such asylum shall have been established, and not elsewhere; or if no such asylum shall have been established, in some house duly licensed for the reception of lunatics as aforesaid, or in some other secure place as directed by the said recited Act: and if such person have not an estate to pay and satisfy the reasonable charges of removing and of keeping maintaining and curing such person under the authority of the said recited Act, then such charges shall be satisfied and paid by the treasurer of the county within which such person shall be apprehended, out of the county rates, by order of two justices to him directed for that purpose.

Where the legal Settlement of Lunatics cannot be discovered, Justices shall send them to the Lunatic Asylum, &c.
See § 19.

XXI. Provided always and be it further enacted, That nothing in this Act contained shall extend or be construed to extend to render any lunatic asylum which may be provided under the authority of this Act for the use of any county or united counties liable to the reception of lunatics or insane persons who may be chargeable to or apprehended in any city town precinct parish township or place situated within the limits of such county or united counties, but claiming exemption and being exempt from contributing to the county rate, unless such city town precinct parish township or place shall have agreed to unite, and shall thereby have contributed to the expence of the same under the powers hereinbefore given in this Act.

Lunatic Asylum shall not be liable to Reception of Lunatics chargeable to any Place not contributing.

XXII. 'And whereas in many parts of this kingdom lunatic asylums have been built and established, and others may hereafter be built and established by voluntary contribution for the reception and care of lunatics of all descriptions, contributing to the general charge of maintenance medicines and care by certain weekly payments, according to the pecuniary circumstances of the parties respectively or of their immediate connexions, the excess of payments of the more affluent being applied to relieve and lower the payments of persons in more limited circumstances: And whereas it is fit and expedient to support and encourage such laudable institutions, and it may be of great advantage that asylums intended by this Act to be erected for pauper lunatics should be united to or connected with such institutions by voluntary subscription: Be it enacted, That at any meeting of the justices of the peace to be held as aforesaid in any county for the purpose of considering and determining on the expediency and propriety of providing a lunatic asylum or house of reception for lunatics or other insane persons, if it shall appear to the major part of the justices so assembled that it would be expedient to unite and join with any lunatic asylum so built and established by voluntary contribution or so intended to be built and established, it shall be lawful for the justices so assembled to appoint a committee (in manner hereinbefore directed to be appointed to treat with any adjoining county or counties) to treat with and enter into and subscribe an agreement with a committee of governors directors or subscribers to such voluntary institution, such committee being authorised and appointed by a majority of such subscribers to be called by public advertisement as aforesaid for the express purpose of making such appointment; and all provisions hereinbefore directed in regard to counties treating and agreeing with each other shall be adhered to and be effectual, so far as the same will apply or as the different circumstances of

Justices may agree to unite with Asylums established by voluntary Contributions.

• § 3, 4.

No. IV.
48 Geo. III.
c. 96.

Penalty on
Servants in
Asylum suffer-
ing Lunatics to
go at large with-
out Order of
Justices, 104. to
40a.

Visiting Jus-
tices shall regu-
late Asylums,
appoint Offi-
cers, &c.
See § 2.

Visiting Jus-
tices shall direct
Repairs of Asy-
lums, &c.

the two cases will admit; and the number of the committee of directors governors or subscribers appointed by the subscribers shall not exceed the number of the committee of justices to be appointed by the justices of the peace on the part of the county; and such committee of subscribers or the major part of them shall be competent to enter into and subscribe any agreement to all intents and purposes as fully and effectually as any committee appointed under this Act on the part of any county uniting to treat with any other county so uniting: Provided always, no agreement so made by any committee of justices shall be valid and have force on the part of the county, until the same shall have been submitted to and approved by the majority of the justices of the peace of the county assembled at the next ensuing general quarter sessions which shall be held after such agreement shall have been entered into.

XXIII. And be it further enacted, That all lunatics insane persons or dangerous idiots so committed to such asylum shall be safely kept, and that no such person shall be suffered to quit the said asylum or to be at large until the visiting justices or the greater part of them shall order the discharge of such person and shall signify the same in writing under their hands and seals; and that if any officer servant or assistant in such asylum shall notwithstanding through neglect or connivance permit such person in any case to escape and be at large without such order as aforesaid, he or she shall for every such offence forfeit and pay a sum not exceeding ten pounds nor less than forty shillings, to be recovered by distress and sale of the offender's goods and chattels by warrant under the hands and seals of any two justices of the peace acting for the county within which such asylum shall be situated; which warrant such justices are hereby required to grant upon the confession of the party or upon the information of any witness or witnesses upon oath (which oath such justices are hereby empowered to administer); and the said penalty, after the charges of recovering the same shall be deducted, shall be paid one moiety to the informer and the other moiety to the treasurer of the said asylum, to be applied to the use of the same.

XXIV. And be it further enacted, That in all cases where any such lunatic asylum shall have been established under the authority of this Act, the visiting justices appointed as aforesaid to superintend the same or the major part of them, such major part not being fewer than five, shall from time to time make such regulations as to them shall seem expedient for the management and conduct thereof, in which regulations shall be set forth the number and description of officers and servants to be kept, the duties to be required, and what salaries shall respectively be paid to them; and may appoint a treasurer and such other officers and servants, together with such number of assistants as they shall from time to time find necessary in proportion to the number of persons confined in such asylum, and may dismiss any such officer servant or assistant if they see occasion; and shall from time to time fix a certain weekly rate to be paid for each person confined in such asylum which may be sufficient to defray the whole expence of the maintenance and care medicines and clothing requisite for such person and the salaries of the officers and attendants; provided always, that such rate shall in no case exceed fourteen shillings per week; and that the said visiting justices shall annually audit the accounts of the treasurer and report the same to the next general quarter sessions of the peace to be holden for the counties at the expence of which such asylum has been established.

XXV. And be it further enacted, That such visiting justices may from time to time order all such repairs or other expences as may be necessary for such lunatic asylums, and shall direct the same to be paid by an order upon the county treasurer where such asylum shall be established by one county only, or shall apportion the same as afore-mentioned upon each county where such asylum is established for a district of united counties, and shall make an order upon the treasurer of each of the said united counties for the payment of the proportion to be paid by such county, and that such county treasurer shall immediately discharge the same out of any money which may then be in his hands, under the penalty of double

such sum as he shall be directed to pay, to be recovered from him for the benefit of such asylum, by action in any of his Majesty's Courts at Westminster by the treasurer of the said asylum.

XXVI. And be it further enacted, That in all future rates taxes and levies to be made for any parish or place in which any land or ground to be purchased for the purposes of this Act shall be situate, such land or ground with any building to be erected thereon shall not be assessed to any such rates taxes or levies at a higher value or more improved rent than the same land or ground was at the time of such purchase; nor shall any building or buildings which under this Act shall be erected on such land be assessed to any house or window tax, any Act or Acts of Parliament to the contrary notwithstanding.

XXVII. And whereas by an Act passed in the thirty-ninth and fortieth years of the reign of his present Majesty, and intituled "An Act for the safe Custody of insane Persons charged with Offences," it is enacted, that in certain cases therein specified it shall be lawful for courts of justice to direct insane persons to be kept in strict custody in such place and in such manner as to such courts shall seem fit until his Majesty's pleasure shall be known; and that it shall thereupon be lawful for his Majesty to give such order for the safe custody of such persons during his pleasure in such place and in such manner as to his Majesty shall seem fit: And whereas it is expedient that provision should be made for the due maintenance and care of such persons while they shall be so kept in custody; Be it enacted, That in all cases where any person shall by virtue of the above last recited Act be kept in such custody as a lunatic or insane person by order of any court or by his Majesty's order subsequent thereto, it shall and may be lawful for any two justices of the peace of the county where such person shall be so kept in custody to inquire into and ascertain by the best legal evidence that can be procured under the circumstances of personal legal disability of such lunatic the place of the last legal settlement and the circumstances of such person; and if it shall not appear that he or she is possessed of sufficient property which can be applied to his or her maintenance, to make order upon such parish where they shall adjudge him or her to be legally settled to pay such weekly sum for his or her maintenance in such place of custody as such court or his Majesty shall appoint as shall from time to time be fixed upon and directed in writing by one of his Majesty's Principal Secretaries of State; and that where such place of settlement cannot be ascertained such allowance shall be paid by the treasurer of the county where such person shall have been apprehended; but if it shall appear that such person is possessed of such sufficient property as aforesaid, then such justices shall order and direct the same to be applied to pay and satisfy the expence of the maintenance of such person in the manner directed in the case of lunatics and mad persons by the above recited Act passed in the seventeenth year of King George the Second: Provided always, that the churchwardens and overseers of such parish in which the said justices shall adjudge any lunatic to be legally settled or the major part of them may appeal against such order to the general quarter sessions of the peace to be holden for the county where such order shall be made, in like manner and under like restrictions and regulations as against any order of removal, giving reasonable notice thereof to the clerk of the peace of such county, who shall be respondent in such appeal; which said appeal the justices of the peace assembled at the said general quarter sessions are hereby authorised and empowered to hear and determine in the same manner as other orders of removal are now heard and determined.

XXVIII. And be it further enacted, That all provisions directions clauses matters and things whatever in this Act contained relating to counties shall extend and be construed to extend to all ridings divisions cities towns liberties and places possessing separate jurisdictions; and if relating to parishes shall extend and be construed to extend to all villis townships and places maintaining their own poor as fully and amply as if they were severally and respectively repeated in every such provision direction and clause and with relation to any such matter or thing.

No. IV. .
48 Geo. III.
c. 96.

Asylum exempted from increased Rates, and from Window Tax.

39 & 40 Geo. 3.
c. 94. § 2.

When insane Persons charged with Murder are kept in Custody under recited Act, Justices shall inquire into their Settlement, and make Order for their Maintenance.

Appeal to Quarter Sessions.

Provisions as to Counties extended to Ridings, &c.

No. IV.

SCHEDULE No. I.

48 Geo. III. Form of Agreement for uniting the Counties or Ridings, &c. [as the Case may be] of A. B. and C.; for the Purpose of providing a Lunatic Asylum or House for the Reception of Lunatics and Insane Persons, pursuant to the Statute of the Forty-eighth Year of King George the Third.

IT is agreed this day of by and between the Committees of Justices of the Peace severally appointed for the counties [or, ridings, cities, &c. as the case may be] of A. B. C. to treat for the uniting of the said counties for the purposes of an Act (for the better care and maintenance of paupers and criminal lunatics) passed in the forty-eighth year of his Majesty King George the Third, that the said counties [&c. as the case may be] shall from henceforth be united for the purposes of the said Act, and adopt in all respects the provisions rules orders and regulations and comply with all the requisites prescribed by the said Act for counties uniting for those purposes; and that a lunatic asylum or house for the reception of lunatics and other insane persons with all necessary buildings courts yards and outlets shall be immediately provided at or near and properly fitted up and accommodated for the purposes mentioned in the said Act; and that the necessary expences attending upon the providing building fitting up repairs and maintenance of the said lunatic asylum shall be defrayed by the said counties so united in the following proportions; (that is to say),

The county of A. four-ninths of the said expences.

The county of B. three-ninths of the same.

The county of C. two-ninths of the same [or, as the case may be.]

And we do further agree, That the Committee of Visiting Justices to superintend the building erection and management of the said lunatic asylum shall consist of eighteen [or, as the case may be]; whereof the justices of the peace for the said county of A. shall appoint eight, the justices of the peace for the county of B. shall appoint six, and the justices of the peace for the county of C. shall appoint four: And hereunto we the undersigned justices of the peace, being the major part of each of the said committees of justices for the said several counties, do on the part and behalf of the said counties set our hands and seals, this day of in the year

SCHEDULE No. 2.

Form of Mortgage and Charge upon the County Rates for securing the Money borrowed.

WE A. B. one of his Majesty's Justices of the Peace and Chairman of the Court of Quarter Sessions of the Peace for the county, &c. of [as the case shall be] holden at the day of C. D. and E. F. Esquires, two other of his Majesty's Justices of the Peace acting for the said county, &c. and assembled in the said court, in pursuance of the powers to us given by an Act passed in the forty-eighth year of the reign of his Majesty King George the Third, intituled [&c. here insert the title of the Act] Do hereby in open court mortgage and charge all the rates to be raised within the said county, [&c. as the case shall be] under the description of county rates, by the laws now in being, with the payment of the sum of which G. H. of hath proposed and agreed to lend and hath now actually advanced and paid towards defraying the expences of purchasing lands for building, repairing, &c. [as the case shall be] the lunatic asylum for the said county, [&c. or, the united counties of, &c. as the case may be] And we do hereby confirm and establish the same unto the said G. H. his executors administrators and assigns for securing the repayment of the said sum of and interest for the same after the rate of per centum per annum,

and do order the treasurer for such county, &c. or other person [as the case shall be] to pay the interest of the said sum of half yearly as the same shall become due, until the principal shall be discharged pursuant to the directions of the said Act.

No. IV.

48 Geo. III.
c. 96.

[No. IV. a.] 51 Geo. III. c. 79.—An Act to amend an Act of the Forty-eighth Year of his present Majesty for the better Care and Maintenance of Lunatics, being Paupers or Criminals, in England.—[15th June 1811.]

WHEREAS by an Act passed in the forty-eighth year of his present Majesty's reign, intituled *An Act for the better Care and Maintenance of Lunatics being Paupers or Criminals in England*, provision is made for the erection of asylums for lunatics and insane persons being paupers or criminals in counties or districts of counties in England: And whereas it is therein among other things enacted, that so soon as any lunatic asylum so erected as aforesaid shall be declared by the visiting justices to be completed and in a fit state for the reception of lunatics and other insane persons, the justices of the peace acting respectively in and for any county or counties, at the expence of which such asylum shall have been built, are authorised and directed to issue warrants upon the application of the overseers of the poor of any parish situate within such county or counties for the conveyance of any lunatic insane person or dangerous idiot who may be chargeable to such parish to such asylum, there to be safely kept until he or she shall be duly discharged: And whereas it is also therein enacted, that if any overseer of the poor of any parish shall wilfully neglect or delay to give information to such justice of any such lunatic or insane person who shall be chargeable to such parish or to make application for such warrant as aforesaid during the space of seven days from the time that he shall be acquainted that such person is so lunatic or insane he shall be liable to a penalty therein specified: And whereas it is expedient that the justices of the peace to whom such applications shall be made should have a discretionary power as to issuing or not issuing such warrants in certain cases and under certain restrictions and particularly in cases where it shall be found that the number of applications on the behalf of persons having just claims to be admitted does at any time exceed the number of those who can be properly accommodated in such asylum with a view to cure comfort and safe custody: Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That whenever any application shall be made by the overseers of the poor of any parish in any county or district of counties, at the expence of which any lunatic asylum shall have been erected, to any justice of the peace acting in and for such county or counties to issue his warrant for the conveyance of any lunatic or insane person to such asylum, it shall and may be lawful for such justice to refuse to issue the warrant so required if he shall so think fit, such lunatic or insane person not being actually dangerous: Provided nevertheless, that any justice so refusing to issue such warrant as aforesaid shall at the time of his so refusing deliver in writing to the overseers of the poor making such application as aforesaid the reasons for such refusal.

II. Provided also, and be it enacted, That if any person or persons shall think themselves aggrieved by such refusal of any justice as aforesaid, such person or persons may appeal to the justices of the peace at the next general or quarter sessions of the peace to be holden in and for the county or place where the matter of appeal shall have arisen, the person or persons so appealing having given to the person against whom such appeal shall be made ten days' notice of his her or their intention to make such appeal; and the said justices at such sessions are hereby authorized and required to hear and determine the matter of such appeal in a summary way and to make such determination as they shall think proper;

51 George III.
c. 79.

48 Geo. 3. c. 96.

Whenever Application shall be made by Overseers of any Parish of any County in which any Lunatic Asylum is erected, for a Warrant for the Conveyance of any Lunatic, the Justice may refuse it, stating his Reasons. Persons aggrieved may appeal to the Quarter Sessions.

No. IV. a.
51 Geo. III.
c. 79.

Justices to
make Returns
to the Quarter
Sessions of the
Cases brought
before them.

Overseers to
produce Certi-
ficate of a Me-
dical Person of
the State of the
Lunatic.

Medical Super-
intendent of
Asylum to
make Returns
of the State of
Persons in-
trusted to his
Care.

The Expence
of Removal of
a Pauper shall
be paid by the
Parish in which
the Pauper
shall be legally
settled.

Bastards of
Lunatics to
have the legal
Settlement of
the Mother.

and every such determination shall be final and conclusive to all intents and purposes whatsoever.

III. Provided also, and be it enacted, That every justice who shall have issued a warrant or warrants for the conveyance of any lunatic or insane person to such asylum, or who shall have refused to issue such warrant or warrants on the application of the overseers of the poor of any parish, shall make regular returns to the next general quarter sessions of the peace to be holden in and for the county in which such parish shall be situate of all cases brought before him in which he shall have granted or refused to grant a warrant or warrants for such conveyance, stating in all cases of refusal the reasons for such refusal; and such returns shall be regularly filed and kept among the records of such court of general quarter sessions.

IV. And be it further enacted, That the overseers of the poor of any parish, on making their application to any justice of the peace for the conveyance of any lunatic or insane person or dangerous idiot as aforesaid, shall produce to such justice a certificate in writing from some medical person of the state and degree of lunacy of the person on whose behalf such application shall be made; and that it shall be further lawful for such justice to cause such lunatic insane person or dangerous idiot to be visited by such medical person as he shall think fit, and to examine the said medical person upon oath as to the state and degree of lunacy of such lunatic insane person or dangerous idiot, and to order such sum to be paid to such medical person for his attendance as may seem just and reasonable, and such sum shall be paid by the overseers of the poor of the parish making such application, out of the money raised therein for the relief of the poor.

V. And be it further enacted, That the medical superintendent of every such asylum as aforesaid shall make regular returns to the justices of the peace assembled at their general or quarter sessions at least once in every year of the state and condition of all persons committed to his care under the authority of the aforesaid Act passed in the forty-eighth year of his present Majesty's reign and of this Act, in order that the said justices may be enabled from the inspection of such returns and from the report of such medical superintendent to direct the discharge of any persons from such asylum who may appear from such returns and report to be no longer fit objects to remain therein; and that the said justices may at the same time issue their warrants (which they are hereby authorized to issue for the admission of such other persons at their discretion as may appear to be the fittest objects for immediate reception therein out of the several persons on whose behalf application may have been made to any justice of the peace as aforesaid, and whose cases may have been regularly reported to the said general or quarter sessions.

VI. And be it further enacted, That on the regular discharge of any pauper from any such asylum the necessary expences attending the removal of such pauper shall be borne by the parish in which such pauper shall be legally settled, and such expences being allowed by two justices of the peace acting in and for the county in which such parish shall be situated shall be paid by the overseers of the poor of such parish out of the money raised therein for the relief of the poor.

VII. And be it further enacted, That no bastard child which shall be born of any lunatic insane person or dangerous idiot in any such asylum shall thereby gain a settlement in the parish in which such asylum shall be situated; but that the place of the legal settlement of any such child so born as aforesaid shall be in the parish where the mother of such child was last legally settled.

[No. V.] 55 George III. c. 46.—An Act to amend an Act passed in the Forty-eighth Year of the Reign of his present Majesty, intituled "An Act for the better Care

and Maintenance of Lunatics, being Paupers or Criminals, in England."—[2d May 1815.]

No. V.

55 Geo. III.

c. 46.

55 George III.

c. 46.

WHEREAS an Act was made in the forty-eighth year of the reign of his present Majesty, intituled "An Act for the better Care and Maintenance of Lunatics, being Paupers or Criminals, in England:" And whereas it is expedient that the said Act should be amended; Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That in every case in which it shall have been or may hereafter be determined that a lunatic asylum shall be erected under the provisions of the said recited Act, it shall be lawful for the justices of the peace acting in and for the county or united counties, at whose expence such lunatic asylum shall have been or shall be erected, annually at the *Michaelmas* general quarter sessions of the peace to be held for such county or counties respectively, or in counties where annual general sessions have been fixed by law, at such annual general sessions to elect the members of the committee of visiting justices for the building erection and management of such asylum; and that it shall be lawful for the justices of the peace acting in and for such county or counties or the major part of them, such major part not being less than seven, assembled at any annual general or quarter sessions of the peace to be held for such county or counties respectively, or any adjournment thereof, to fill up any vacancy in the number of visiting justices so appointed as aforesaid that may have occurred by the death or resignation of any such visiting justice.

Committee of Visiting Justices of Lunatic Asylums to be elected annually.

Vacancies to be filled up.

II. And be it further enacted, That if the justices assembled at the *Michaelmas* general quarter sessions of the peace or annual general session in any year shall omit or neglect to make such election as aforesaid, or if the justices assembled at any annual general or quarter sessions or any adjournment thereof shall neglect or omit to fill up any vacancy that may have occurred as aforesaid, the committee of visiting justices before appointed or such of them as shall continue to act shall be deemed and taken to be the legal committee of visiting justices for the building erection and management of such asylum, until the next *Michaelmas* general quarter sessions of the peace or annual general session.

In case such Election be neglected the Visiting Justices continuing to act deemed the Committee.

III. And be it further enacted, That the subscribers to any lunatic asylum erected or to be erected by voluntary contributions, who may have united or who may hereafter unite with any county or counties under the provisions of the said recited Act, or the majority of such subscribers present at a general meeting to be held in the month of *October* in every year, of which due notice shall be given by public advertisement in some newspaper circulated within the county in which such lunatic asylum shall be situate, shall annually elect their committee of governors directors or subscribers for the purpose of acting with the committee of visiting justices appointed or to be appointed on behalf of such county or counties for the building erection and management of such asylum in the manner prescribed by the said recited Act; and that it shall be lawful for the subscribers to any such asylum erected or to be erected by voluntary contributions as aforesaid, or the major part of them present at any general meeting to be called for that purpose, of which due notice shall be given as aforesaid, to fill up any vacancy in the number of such committee of governors directors or subscribers as aforesaid that may have occurred by the death or resignation of any member of such committee.

Subscribers to Lunatic Asylums who may unite with any County or Counties annually may elect a Committee of Governors to act with Committee of Visiting Justices.

IV. And be it further enacted, That if no such annual meeting as aforesaid shall take place or the subscribers assembled at such meeting shall fail to make such election as aforesaid, then the governors directors or subscribers before appointed to act with the committee of visiting justices appointed or to be appointed by such county or counties for the building erection and management of such asylum, or such of them as shall continue to act, shall be deemed and taken to be a legal committee for the purpose of acting with such committee of justices as aforesaid until the next general annual meeting of subscribers to such lunatic asylum.

In case of neglect to make Election, the Governors continuing to act shall be deemed the Committee.

No. V.

55 Geo. III.
c. 46.

Clerk may convene new Meetings.

Justices to fix sums to be expended in purchase of Lands, Houses, &c. or in erecting Buildings.

Weekly Rate for Paupers may be increased by Justices.

Overseers of Poor to return Lists of all Lunatics and Idiots within their respective Parishes, verified on Oath, and accompanied with Certificate from a Medical Practitioner,

V. And be it further enacted, That if any committee of visiting justices or of visiting justices united with any committee of governors or directors of or subscribers to any lunatic asylum erected or to be erected by voluntary contributions shall neglect to adjourn any meeting held for the purposes of the said recited Act, or where any unforeseen circumstance shall occur rendering the meeting of such committee necessary within the period to which their meeting may have been adjourned, it shall be lawful for the clerk to such committee to convene a new meeting by a circular letter to each member of such committee, informing him of the time and place of such meeting ten days at least before the same shall be held.

VI. And be it further enacted, That in every case in which a lunatic asylum shall have been or shall hereafter be erected by any county under the provisions of the said recited Act, it shall be lawful for the justices of the peace of such county, or the major part of them (such major part not being less than seven) assembled at any annual general or quarter sessions of the peace or any adjournment thereof to be held for such county, from time to time to fix and limit the sums which may be expended on the purchase of lands or houses or in the erection of new buildings or in the extension or alteration of existing buildings for the purpose of such lunatic asylum, or the yards outlets or courts thereunto belonging, as well on the first establishment of such lunatic asylum as at any time during its continuance; and it shall not be lawful for the committee of visiting justices appointed for the building erection and management of such asylum to enter into any contract or contracts for the purchase of lands or houses or for the erection of new buildings or for the extension or alteration of existing buildings for the purpose of such lunatic asylum, or the yards outlets and courts thereunto belonging at a sum or sums which may in the whole exceed the sums so from time to time limited and appointed by the justices assembled in sessions as aforesaid; and no contract so entered into by such visiting justices shall be held to be valid or legal.

VII. And whereas it is in the said recited Act enacted, That the weekly rate to be fixed by the committee of visiting justices to be paid for each pauper confined in any lunatic asylum shall in no case exceed fourteen shillings per week: And whereas it may be necessary that such weekly rate should in certain cases be increased; Be it further enacted, That it shall be lawful for the justices of the peace acting in and for any county at whose expence any lunatic asylum shall have been or shall be hereafter erected or the major part of them assembled at any annual general or quarter sessions of the peace to be held for such county or any adjournment thereof (such major part not being less than seven) to make such addition to such weekly rate as to them shall seem fit and necessary, and to make an order accordingly; which order shall be signed by the clerk of the peace or his deputy on behalf of the court, and forthwith published in some newspaper circulated within the county; and such additional rate shall be paid by the overseers of the poor of the parishes townships or places to which the lunatics in such asylum respectively belong, in the same manner as is provided by the said recited Act with regard to the weekly rate from time to time to be fixed on by the visiting justices for the maintenance medicine clothing and care of such lunatics.

VIII. And be it further enacted, That it shall be lawful for the justices of the peace acting in and for any county at their several petty sessions to issue their warrants to the overseers of the poor of the parishes townships and places within their several subdivisions to return true lists of all lunatics and dangerous idiots being paupers within their respective parishes, specifying the name sex and age of each lunatic and idiot, and whether such lunatic be dangerous or otherwise; and for what length of time such lunatics shall have been disordered in their senses; and the overseers of the parishes aforesaid shall on the receipt of such warrants forthwith prepare and return such lists accordingly; and such lists shall be verified on oath before the justices of the peace at their petty sessions as aforesaid and accompanied with a certificate from a medical practitioner,

citizen as to the state and condition of each lunatic or dangerous idiot; and any overseer of the poor to whom any such warrant shall have been directed and delivered who shall refuse or neglect to prepare such list or to return the same at the time and place by such warrant fixed, with such certificate as aforesaid or to verify such list on oath, shall for every such offence be subject to such fine as overseers of the poor and other parish and peace officers are subject for neglect of duty under an Act passed in the thirty-third year of his present Majesty's reign, intituled "An Act to authorise Justices of the Peace to impose Fines on Constables, Overseers and other Peace or Parish Officers for Neglect of Duty, and on Masters of Apprentices for Ill Usage of such their Apprentices; and also to make Provision for the Execution of Warrants of Distress granted by Magistrates;" and such fines shall be imposed levied and enforced in the manner in the said Act directed; and the justices aforesaid shall cause the said lists to be forthwith transmitted to the clerk of the peace or his deputy, to be by him laid before the justices of the peace acting in and for such county at their next general quarter sessions of the peace or general annual session: and it shall be lawful for such overseers of the poor to defray the necessary expences of the examination of such lunatics or dangerous idiots by a medical practitioner out of the poor rates of the parishes to which such lunatics or idiots respectively belong; or where the legal settlement of any such lunatic or idiot shall not have been ascertained, then out of the poor rates of the parish in which such lunatic or idiot shall reside.

No. V.
55 Geo. III.
c. 46.

Lists to be laid before General Quarter Sessions.

Expences of Examination of Lunatics, &c. to be paid by Parishes.

Visiting Justices may discharge Lunatics.

Returns to be taken on the last Returns of Population.

41 Geo. 3.
Sess. 1. c. 15.

51 Geo. 3. c. 79.

Limiting the Number of Visitors.

When any Asylum can

IX. And whereas it may happen that lunatics by the provisions of the laws now in force may be unnecessarily detained in any lunatic asylum after their recovery during the intervals of meetings of the committee of visiting justices or by reason of the non-attendance of a sufficient number of visiting justices at any meeting of such committee; Be it further enacted, That it shall be lawful for any two visiting justices at any time, by and with the advice and consent of the medical superintendent of such asylum, to discharge from such asylum any lunatic confined therein whose perfect recovery may be certified by the said medical superintendent.

X. And whereas it is enacted by the said recited Act of the forty-eighth year of his present Majesty's reign, That where any two or more counties shall think fit to unite the proportion of the expences necessary for carrying into execution the purposes of the said Act, to be charged and assessed upon the several counties so uniting, shall be calculated upon the numbers of the respective population of the said several counties as stated in the returns made in pursuance of an Act passed in the forty-first year of his Majesty's reign, intituled "An Act for taking an Account of the Population of Great Britain and of the Increase and Diminution thereof;" Be it hereby further enacted, That in all cases of the union of any two or more counties or of the union of any place or places of distinct jurisdiction with any such county or counties, the proportion of the expences necessary for carrying into execution the purposes of the said recited Act or of an Act passed in the fifty-first year of the reign of his present Majesty, intituled "An Act to amend an Act of the Forty-eighth Year of his present Majesty for the better Care and Maintenance of Lunatics being Paupers or Criminals in England," or of this Act, shall be calculated upon the numbers of the respective population of the said several counties and places as shall have been stated in the last returns of the said population which shall have been made under the authority of Parliament previous to the union of such counties.

XI. Provided always and be it further enacted, That the number of visitors to be appointed by any such place of distinct jurisdiction so uniting with any county or counties shall bear the same proportion to the number of visiting justices appointed by such county or counties as the population of such place shall bear to the population of such county or counties, and shall in no case exceed such proportion.

XII. Provided always and be it further enacted, That whenever and so often as it shall appear to the justices of the peace acting in and for

No. V.

56 Geo. III.
46.

accommodate
more Lunatics,
Magistrates
may order an
Addition under
certain Regula-
tions.

any county or counties at whose expence any lunatic asylum shall have been erected or the major part of them, such major part not being less than seven, assembled at any general quarter sessions of the peace or general annual sessions, that the space within such asylum is more than sufficient for the accommodation of lunatics, being paupers, within the district or districts for which such asylum shall have been built, it shall and may be lawful for such justices so assembled to make order for the admission of so many lunatic patients as to them shall seem expedient, not being pauper or criminal, or being paupers but belonging to any other county or to any parish township or place within the county or counties by which such asylum shall have been erected, which may be exempt from contributing to the county rate of such county or counties, and which shall not have united with such county or counties or contributed to the expence of such erection, under the conditions and regulations following, that is to say, That no such lunatic patient shall be admitted into such asylum without an order signed by one visiting justice, directed to the governor or superintendent of such lunatic asylum, nor without the certificate in writing of a regular practitioner in medicine certifying the lunacy of such patient, nor without an undertaking signed by two substantial householders or the minister and one of the churchwardens or one of the overseers of the poor of the parish or place within which such lunatic shall be resident at the period of application made for the admission of such patient into such asylum, for the due payment of the weekly allowance and other expences contingent upon the maintenance and care of such lunatic during the time of his or her continuance in such asylum, as well as for the removal of such lunatic from such asylum within three days after due notice given in writing by the governor or superintendent of such asylum, by the order of one or more visiting justice of such asylum, under the penalty of fifty pounds, to be recovered and applied as other penalties are directed to be recovered and applied by virtue of this or any other Acts of Parliament passed for the building and maintaining of asylums for the reception of pauper lunatics: Provided always, that the weekly provision for the maintenance of such patients, not being paupers, shall be fixed by the visiting justices at such rate as shall in their judgment be sufficient to cover every expence liable to be incurred for or on account of each such patient respectively; and that in no case such weekly provision shall be fixed at a sum less than a sum exceeding by one-third the weekly sum paid at such time by the parishes within such district or districts for the maintenance of the patients thereto belonging respectively, together with such extra charge for clothing and medicine as may be incurred during the continuance of such patient in such asylum under the sanction of the visiting justices thereof.

[No. VI.] 56 Geo. III. c. 117.—An Act to amend an Act passed in the Thirty-ninth and Fortieth Year of the Reign of his present Majesty, for the safe Custody of Insane Persons charged with Offences.—[1st July 1816.]

56 George III.
c. 117.39 & 40
Geo. 3. c. 94.

WHEREAS by an Act passed in the thirty-ninth and fortieth years of the reign of his present Majesty, intituled *An Act for the safe Custody of Insane Persons charged with Offences*, it is enacted, that in certain cases therein specified it shall be lawful for courts of justice to direct insane persons to be kept in safe custody in such place and in such manner as to such court shall seem fit, until his Majesty's pleasure shall be known; and that it shall thereupon be lawful for his Majesty to give such order for the safe custody of such persons during his pleasure in such place and in such manner as to his Majesty shall seem fit: And whereas it is expedient that provision should be made for the due care of persons who may after conviction for any criminal offence become insane; Be it therefore enacted by the King's most excellent Majesty, by and with

the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That if any person having been duly convicted of any offence, who after such conviction and during his or her imprisonment or continuance in any gaol prison hulk penitentiary house or house of correction, under sentence of transportation or imprisonment, shall become insane, and it shall be duly certified by two physicians or surgeons that such person is insane, it shall be lawful for one of his Majesty's principal secretaries of state to direct by warrant under his hand that such person as aforesaid shall be removed to such lunatic asylum or other proper receptacle for insane persons in the united kingdom as his Majesty's said principal secretary of state may judge proper and appoint; and every such person so removed as aforesaid shall remain under confinement in such lunatic asylum or other proper receptacle as aforesaid, or in any other lunatic asylum or other proper receptacle to which such person may be removed by any like order, until it shall be duly certified to his Majesty's said principal secretary of state by two physicians or surgeons that such person has become of sound mind; whereupon his Majesty's said secretary of state is hereby authorised, if such person shall still remain subject to imprisonment or to be continued in custody, to issue his warrant to the keeper or other person having the care of any such lunatic asylum or other proper receptacle as aforesaid, directing that such person shall be removed back from such lunatic asylum or other proper receptacle to the gaol prison hulk penitentiary house or house of correction from whence the said person or persons shall have been taken for the purposes of being confined in such lunatic asylum or other proper receptacle as aforesaid during the time of their being insane; or if the period of imprisonment or custody of such person had expired, that such person shall be discharged.

No. VI.

56 Geo. III.
c. 117.

Offenders becoming Insane during Confinement, may be removed to any Lunatic Asylum.

[No. VII.] 59 Geo. III. c. 127.—An Act for making Provision for the better Care of Pauper Lunatics in England.—[12th July 1819.]

WHEREAS it is expedient that further provision should be made for the care of pauper lunatics in England who may be chargeable to any parish; Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That upon its being made known to two or more justices of the peace of any county that a poor person chargeable to any parish or place within any of the said counties is deemed or taken to be lunatic or insane or a mischievous idiot, it shall be lawful for the said justices by an order under their hands and seals if they shall so think fit to require the overseers of the poor of the said parish or place to bring the said poor person before them or some other justices of the peace of the said county, at such time and place as shall be appointed by the said order; and the said two justices are hereby authorised to call to their assistance a medical person at the charge of the said parish or place; and if upon view and examination of the said poor person or from other proof the said justices shall be satisfied that such poor person is lunatic insane or a mischievous idiot, it shall be lawful for the said two justices by an order under their hands and seals directed to the said overseers of the poor, according to the form in the schedule (A.) annexed to this Act, to cause the said poor person to be conveyed to and placed in some lunatic asylum, in all cases where such asylum shall have been established under the directions of an Act passed in the forty-eighth year of his present Majesty, intituled *An Act for the better Care and Maintenance of Lunatics being Paupers or Criminals in England*, for the county or district of united counties within which the parish or place to which such poor person belongs shall be situated; but if no such lunatic

59 George III.
c. 127.

In Cases where insane Persons are chargeable to the Parish, the Justices shall direct the Overseers to convey them to some licensed House for Lunatics.

48 Geo. 3. c. 96.

No. VII.
50 Geo. III.
c. 147.

asylum shall have been established, such justices shall then direct such poor person to be conveyed to and placed in some house duly licensed for the reception of insane persons; and it shall be lawful for the said two justices or for any other two justices of the peace acting in the division of the said county wherein the said parish or place is situated, from time to time as occasion may require to make order on the overseers of such parish or place for the payment of all reasonable charges of conveying such poor person to such lunatic asylum or licensed house, and if such poor person shall be conveyed to a lunatic asylum for the payment of such weekly sum to the treasurer of such asylum as shall be from time to time fixed upon by the visiting justices of such asylum under the authority of the said recited Act, or if such poor person shall be conveyed to such licensed house for the payment of such weekly or monthly sum to the keeper of such licensed house for the maintenance medicine clothing and care of such poor person as such keeper shall be willing to accept, and as shall appear to the said justices to be a reasonable charge in that behalf; and the said overseers of the poor shall not remove such poor person from the said house without an order for that purpose made by two justices of the peace for the county after due inquiry into the circumstances of the case, unless such person shall have been discharged as cured: Provided always, that the overseer or overseers of such parish or place so conveying such insane person to such asylum or licensed house as aforesaid, shall and is hereby required to deliver a certificate from the medical person so called to the assistance of the justices as aforesaid (which certificate such medical person is hereby required to give according to the form in schedule (B.) annexed to this Act to the keeper of such asylum or licensed house).

Public Act.

II. And be it further enacted, That this Act shall be deemed and taken to be a public Act, and shall be judicially taken notice of as such by all judges justices and other persons whomsoever, without specially pleading the same.

Penalty on
Overseers of
the Poor neg-
lecting to give
Information to
a Justice of the
Peace of the
Lunatic.

III. And be it further enacted, That if any overseer of the poor of any parish or place to which any lunatic or insane person shall be chargeable, shall for the space of seven days wilfully neglect or delay to give information of the state of such person to some justice of the peace acting within the division of the county within which the said parish or place is situate, he shall for every such offence forfeit and pay a sum of money not exceeding ten pounds nor less than forty shillings (half to the informer and half to the poor of the said parish or place), to be recovered by distress and sale of the offender's goods and chattels, by warrant under the hands and seals of any two justices of the peace for the county within which such parish or place is situate.

Schedule (A.)

FORM OF WARRANT.

WHEREAS it appears to us, two of his Majesty's Justices of the Peace for the county of _____ having called to our assistance *A. B.* a medical person, that *C. D.* chargeable to the parish of *I.* in the said county is [*lunatic insane or a dangerous idiot, as the case may be*] you are hereby directed to cause the said *C. D.* to be conveyed to the lunatic asylum at *E.* established under an Act passed in the forty-eighth year of George the Third, intituled *An Act for the better Care and Maintenance of Lunatics, being Paupers or Criminals in England*, in order that proper means may be there used for the cure of the said *C. D.*; and you are hereby ordered to pay to the treasurer of the said asylum such weekly sum for the maintenance and care of the said *C. D.* as shall be from time to time fixed upon by the visiting justices of the said asylum under the authority of the said Act; or to the house of *E. F.* situate at *G.* in the county of *K.*; the said house being a house duly licensed for the reception of lunatics; and you are hereby ordered to pay to the said *A. B.* the [weekly or monthly] sum of _____ for the maintenance,

medicine clothing and care of the said C. D., which sum the said E. F. is willing to accept, and which appears to us to be a reasonable charge in that behalf.

Given under our hands and seals, this

day of
L. M.
N. O.

No. IX.
5 Geo. IV.
c. 71.



To the Overseers of the Poor
of the parish of I.

Schedule (B.)

FORM OF CERTIFICATE.

I Do hereby certify, That by the directions of L. M. and N. O. Esquires, Justices of the Peace for the county of H., I have personally examined C. D. and that the said C. D. appears to me to be of insane mind.

Dated this

Day of

A. B. (Physician Surgeon or Apothecary,
as the case may be) resident at R.

[No. VIII.] 1 Geo. IV. c. 98.—An Act to amend an Act passed in the Fifty-seventh Year of his late Majesty for the Establishment of Assylums for the Lunatic Poor in Ireland.—[24th July 1820.]

[No. IX.] 5 Geo. IV. c. 71.—An Act to amend several Acts passed for the better Care and Maintenance of Lunatics, being Paupers or Criminals, in England.—[17th June 1824.]

WHEREAS an Act was passed in the forty-eighth year of the reign of his late Majesty King George the Third, intituled *An Act for the better Care and Maintenance of Lunatics, being Paupers or Criminals, in England*: And whereas another Act was passed in the fifty-first year of the reign of his said late Majesty, intituled *An Act to amend an Act of the Forty-eighth Year of His present Majesty, for the better Care and Maintenance of Lunatics, being Paupers or Criminals, in England*: And whereas another Act was passed in the fifty-fifth year of the reign of his said late Majesty, intituled *An Act to amend an Act passed in the Forty-eighth Year of the Reign of His present Majesty, intituled 'An Act for the better Care and Maintenance of Lunatics, being Paupers or Criminals in England:'* And whereas another Act was passed in the fifty-sixth year of the reign of his said late Majesty, intituled *An Act to amend an Act passed in the Thirty-ninth and Fortieth Year of the Reign of His present Majesty, for the safe Custody of Insane Persons charged with Offences*: And whereas another Act was passed in the fifty-ninth year of the reign of his late Majesty, intituled *An Act for making Provision for the better Care of Pauper Lunatics in England*: And whereas it is expedient that the said Acts should be amended: May it therefore please your Majesty that it may be enacted; and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That no order or determination to be made at any meeting of the visiting justices which shall be held under or by virtue of the said recited Acts, or any of them, or this Act, shall be made or entered into, unless the major part of the justices present at such meeting shall concur therein, nor unless due notice of such meeting shall have been previously given, according to the provisions of the said recited Acts, or according to the rules and regulations made by the visiting justices; and that all acts orders and proceedings, which by the said recited Acts or any of them, or by this Act, are directed to be had, made, done, or exercised by or before the said visiting justices, and all the powers and authorities by such Acts or

48 G. 3. c. 96.

51. G. 3. c. 79.

55 G. 3. c. 46.

56 G. 3. c. 117.

59 G. 3. c. 127.

No Order to be made by Visiting Justices, unless the major Part of Justices present concur therein.

No. IX.
5 Geo. IV.
c. 71.

In cases where Two Counties have united, &c., the Number of Visiting Justices or Visitors may be increased from time to time, notwithstanding any original Agreement.

Two Justices may make an Order on the Overseers of the Parish where the Settlement of any Lunatic is adjudged to be, for a Weekly Sum for such Lunatic's Maintenance.

Appeal may be made to Quarter Sessions.

Visiting Justices may fix Weekly Rate for Maintenance of Insane Persons, and give Order for Recovery thereof.

any of them, or by this Act, vested in them generally, shall and may be had, made, done, and exercised by the major part of such justices present at the respective meetings to be held by virtue of the said recited Acts and this Act, the whole number present not being less than three; and all acts orders and proceedings, had, made, done, or exercised by or before such three visiting justices, shall have the same force and effect, and be binding and conclusive on all parties, to all intents and purposes whatever, and as fully and effectually as if the same were had, made, done, or exercised by or before the major part of all the said visiting justices so appointed.

II. And whereas doubts may arise in cases where two counties may have united, or in cases where the justices of the peace of any county may have united with the subscribers to any institution for the care of lunatics established by voluntary contribution, for the purpose of erecting a lunatic asylum, whether the number of visiting justices or visitors of such asylum can from time to time be increased; be it further enacted, That it shall and may be lawful for the number of visiting justices, or visitors of such asylum, to be increased from time to time, notwithstanding the terms of any original agreement between such counties, or between such justices of any county and the subscribers to any such institution, due regard being always had in making such augmentation to the proportion originally established between such visiting justices or visitors as aforesaid; and any such additional number of visiting justices or visitors as may be agreed on shall be appointed in the same manner, and by the same authorities, as vacancies in the number of such visiting justices or visitors may be supplied by any law now in force.

III. And be it further enacted, That in any case in which a lunatic or dangerous idiot, whose settlement, by reason of the lunacy of such person, cannot be ascertained, shall be by the order of two justices confined in any lunatic asylum, it shall and may be lawful for any two justices acting in and for the county in which such asylum shall be situated, at any time to examine into the legal settlement of such lunatic or dangerous idiot; and if satisfactory evidence can be obtained as to such settlement, it shall and may be lawful for such justices to adjudge the last legal settlement of such lunatic to be in such parish or place as may on such evidence appear to him to be the place of such legal settlement; and forthwith to make an order on the overseers of the poor of such parish or place to pay such weekly sum to the treasurer of such asylum as shall have been fixed by the visiting justices as a fit rate for the maintenance, medicine, clothing, and care of lunatics confined in such asylum.

IV. Provided always, and be it further enacted, That if the overseers of the poor of any parish or place shall feel themselves aggrieved by any such order as aforesaid, it shall be lawful for them to appeal, at the next general quarter sessions of the peace for the county in which such lunatic asylum shall be situated; and the justices at such sessions shall hear and determine the matter of such appeal, as in cases of appeals against orders of removal, and award such costs to either party as to them shall seem just and reasonable; and in case the settlement of any lunatic respecting whom such order shall have been made, shall be then and there determined not to be in the parish or place on whom such order shall have been made, then such costs shall be paid by the treasurer of the county or united counties at whose expence such lunatic asylum shall have been erected.

V. And whereas it is by the said recited Acts enacted, that the visiting justices shall from time to time fix a certain weekly rate to be paid for each person confined in every such asylum as is authorized by the said recited Acts to be established, which rate may be sufficient to defray the whole expence of the maintenance and care, medicines and clothing requisite for such person, and the salaries of the officers and attendants: And whereas it is by the said recited Acts of the forty-eighth and fifty-ninth years of the reign of his said late Majesty enacted, that the justices acting for the division of the county where such parish for which any pauper lunatic has been directed and conveyed to such lunatic asylum

shall be situated, shall from time to time make order on the overseers of such parish, for the payment of all reasonable charges of conveying such poor person to such asylum, and for the weekly payment to the treasurer thereof of such sums as the visiting justices of such asylum shall have fixed: And whereas it is expedient that better provision should be made for the recovery of such sums; be it therefore further enacted, That if the overseers for the time being of such parish, upon whom such order shall be made, shall for the space of twenty days after due notice of such order refuse or neglect to pay the sums so ordered to be paid, the same shall be recovered by distress and sale of the goods of such overseers so refusing or neglecting, or of any of them, by warrant under the hands and seals of any two justices of any such respective counties.

VI. And be it further enacted, That all provisions, directions, clauses, matters, and things whatever, in this Act or any of the said recited Acts contained, relating to counties, shall extend and be construed to extend to all ridings, divisions, cities, towns, liberties, and places possessing separate jurisdictions; and if relating to parishes, shall extend and be construed to extend to all villages townships and places maintaining their own poor, as fully and amply as if they were severally and respectively repeated in every such provision direction and clause, and with relation to any such matter or thing.

No. XIV.
9 Geo. IV.
c. 41.

Provisions, &c.,
of this Act relating to Counties, to extend to Ridings, Divisions, &c.

[No. X.] 6 Geo. IV. c. 54.—An Act to amend an Act of the First and Second Years of His present Majesty, for the Establishment of Asylums for the Lunatic Poor in *Ireland*.—[22d June 1825.]

[No. XI.] 7 Geo. IV. c. 14.—An Act for the further Amendment of an Act of the First and Second Years of His present Majesty, for the Establishment of Asylums for the Lunatic Poor in *Ireland*.—[11th April 1826.]

[No. XII.] 9 Geo. IV. c. 34.—An Act for altering and amending an Act passed in the Fifty-fifth Year of the Reign of His late Majesty, intituled *An Act to regulate Madhouses in Scotland*.—[27th June 1828.]

[No. XIII.] 9 Geo. IV. c. 40.—An Act to amend the Laws for the Erection and Regulation of County Lunatic Asylums, and more effectually to provide for the Care and Maintenance of Pauper and Criminal Lunatics, in *England*.—[15th July 1828.]

[No. XIV.] 9 Geo. IV. c. 41.—An Act to regulate the Care and Treatment of Insane Persons in *England*.—[15 July 1828.]

WHEREAS the laws now existing for licensing and regulating houses for the reception of insane persons in *England* are ineffectual: And whereas it is expedient that the several statutes and Acts herein-after mentioned should be repealed, and some other provision made in lieu thereof, for licensing and regulating such houses, and for improving the treatment of insane persons; be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled,

No. XIV.
9 Geo. IV.
c. 41.

Repeal of Acts.

14 G. 3. c. 49.

19 G. 3. c. 15.

26 G. 3. c. 91.

Secretary of
State for the
Home Depart-
ment to appoint
Fifteen Com-
missioners
within London,
&c., of whom
Five to be
Physicians.

Proviso as to
Physicians at
tending Patients
in such Houses.

Commissioners
to grant Li-
cences for
Houses.

Salary to Com-
missioners be-
ing Physicians.

In case of
Death or Re-
fusal of Com-
missioners,
others to be
appointed.

Commissioners
to take the fol-
lowing Oath.

and by the authority of the same, That from and after the commencement of this Act, the several statutes and Acts following shall be repealed; viz. an Act passed in the fourteenth year of the reign of his late Majesty King George the Third, intituled *An Act for regulating Madhouses*; and also an Act passed in the nineteenth year of the reign of his said Majesty King George the Third, intituled *An Act to continue an Act made in the Fourteenth Year of the Reign of His present Majesty, intituled 'An Act for regulating Madhouses,' for a further Time therein limited*; and also an Act passed in the twenty-sixth year of the reign of his said late Majesty King George the Third, intituled *An Act for making perpetual an Act made in the Fourteenth Year of the Reign of His present Majesty, intituled 'An Act for regulating Madhouses'*; and the same several statutes and Acts are hereby repealed, and from and after the commencement of this Act shall cease and determine, save only and except as to such proceedings under any of the said recited Acts respectively as shall have commenced before the passing of this Act, and which shall and may be continued and proceeded in under the authority of and according to the provision of either of the said recited Acts or of this Act, as shall be most expedient.

II. And be it further enacted, That it shall and may be lawful for his Majesty's principal secretary of state for the home department for the time being, annually, on the first day of August in every year, or within ten days then next following, by an instrument under his hand and seal, to appoint not less than fifteen persons to be commissioners, during the space of one year, for licensing and visiting all houses within the cities of London and Westminster, and within seven miles thereof, and within the county of Middlesex, for the reception of two or more insane persons, of which commissioners five at the least shall be physicians; and the said secretary of state shall cause the names of such commissioners to be published in the *London Gazette* within ten days after their appointment: Provided always, that no physician appointed as such commissioner shall professionally attend upon the patients in any house so to be licensed for the reception of insane persons, unless he be specially directed to visit any patient by any relative or friend, under whose order such patient has been admitted into such house, or by a committee appointed by the lord chancellor, or lord keeper or commissioners of the great seal of Great Britain, being intrusted, by virtue of the King's sign manual, with the care and commitment of the custody of the persons and estates of persons found lunatic or idiot, or of unsound mind; and the aforesaid commissioners are hereby empowered to grant licences, if they shall think fit, in the manner directed by this Act, for persons to keep houses for the reception of two or more insane persons, within the cities of London and Westminster, and within seven miles of the same, and within the county of Middlesex; and each and every such commissioner, being a physician, shall be allowed and paid the sum of one pound for every hour he shall be employed in executing the duties of the office of commissioner, exclusive of travelling expences: Provided always, that the number of commissioners who shall be entitled to receive such allowance shall never exceed five at one and the same time.

III. And be it further enacted, That as often as any of the commissioners to be appointed as aforesaid shall die, or refuse to act, or become unable by illness or otherwise, it shall and may be lawful for his Majesty's said principal secretary of state for the home department, by an instrument under his hand and seal, to appoint a commissioner in the room of every commissioner who shall die or refuse or become unable to act; the name of such commissioner to be published within ten days after his appointment in the *London Gazette*.

IV. And be it further enacted, That every person who shall be appointed a commissioner as aforesaid shall, before he shall act in the execution of his duty as a commissioner, take an oath, or if a quaker, make a solemn affirmation, to the following effect; (that is to say),
'I A. B. do swear [or solemnly affirm], That I will faithfully and impartially execute all the trusts committed unto me by virtue of an Act

‘ of Parliament made in the ninth year of the reign of his present Majesty, intituled *An Act to regulate the Care and Treatment of Insane Persons in England.*

Which oath or solemn affirmation it shall and may be lawful for his Majesty's principal secretary of state for the home department, or one of his under secretaries, to administer to every such commissioner so to be appointed as aforesaid.

V. And be it further enacted, That no person shall be appointed commissioner as aforesaid, who shall be, or who shall have been within the two years then next preceding, directly or indirectly interested in the keeping any house licenced for the reception of insane persons; and if any person shall after his appointment become so interested, and continue to act as such commissioner, he shall forfeit the sum of fifty pounds, and his appointment as commissioner shall thenceforth become null and void, and it shall not be lawful for him to act as such commissioner.

VI. Provided also, and be it further enacted, That at all meetings of the said commissioners the majority present shall choose a chairman; and in case of an equality of votes, he shall have a second or casting vote.

VII. And be it further enacted, That his Majesty's principal secretary of state for the home department is hereby empowered, by an instrument under his hand and seal, to appoint during pleasure a fit person to be treasurer for the purposes of this Act, and clerk to such commissioners; and to allow such person such salary for his trouble as his Majesty's principal secretary of state for the home department shall think reasonable, exclusive of the fees to be received by him under this Act.

VIII. And be it further enacted, That every such clerk shall at the first meeting of the said commissioners next after he shall be appointed, take the following oath, to be administered by the chairman of such commissioners:

‘ I A. B. do swear, That I will faithfully execute all such trusts as shall be committed to my charge as clerk to the commissioners for executing an Act of Parliament made in the ninth year of his present Majesty, intituled *An Act to regulate the Care and Treatment of Insane Persons in England*; and that I will keep secret all such matters as shall come to my knowledge in the execution of my office (except when required to divulge the same by legal authority); and that I am not, nor have been at any time within the last two years, directly or indirectly, concerned or interested in keeping any house for the reception of insane persons.

‘ So help me GOD.’

IX. And be it further enacted, That the said commissioners or any five or more of them, two of whom at the least shall not be physicians or surgeons, shall meet at such place as his Majesty's principal secretary of state for the home department may direct, on the first *Wednesday* in the months of *January, April, July, and October* in every year, in order to receive applications from persons requiring licences to keep houses for the reception of two or more insane persons within the cities of *London or Westminster*, and within seven miles of the same, and within the said county of *Middlesex*, and to grant the said licences if they shall think fit; and in case on any such occasion five such commissioners shall not be present, then the meeting shall take place on the next succeeding *Wednesday*, and so on weekly, till such quorum of five shall be assembled for the above-mentioned purpose; and the said commissioners assembled at every such meeting shall have power to adjourn such meeting from time to time, and to such place, as they shall see fit.

X. And be it further enacted, That in all other parts of *England* (except the cities of *London and Westminster*, or within seven miles thereof, and the county of *Middlesex*), the justices of the peace assembled in general quarter sessions shall have authority within their respective counties to grant licences, if they shall think fit, to persons for keeping houses for the reception of insane persons, in the same manner as the aforesaid com-

No. XIV.
9 Geo. IV.
c. 41.

No Commissioner while in Office to keep any House for Patients.

Chairman of Meetings of Commissioners.

Treasurer and Clerk to be appointed.

Clerk to take the following Oath.

Meetings of Commissioners to grant Licences.

Justices in Quarter Sessions (except in London and Westminster) to grant Licences.

No. XIV.
9 Geo. IV.
c. 41.

Justices not to
be interested.

Justices at Ses-
sions to appoint
Visitors, &c.

Clerk to the
Visitors to be
appointed by
Justices at
Quarter Ses-
sions.

Notice of Ap-
plication for
Licence and
Plan of House
to be given to
the Clerk of the
Commissioners
or Justices
Fourteen Days
previous to their
Meeting.

Upon Altera-
tion of House,
Licence and
Plan to be given to Commissioners,

missioners within their jurisdiction: Provided always, that no justice of the peace shall act in granting such licence, who shall directly or indirectly be interested in keeping any such house for the reception of insane persons.

XI. And be it further enacted, That the said justices shall, at the *Michaelmas* general quarter sessions of the peace in every year, appoint three or more justices of the peace, and also one or more physician or surgeon or apothecary, to act as visitors of each house of reception for two or more insane persons within the county; and the said justices, physician, surgeon, or apothecary, so appointed as visitors for each house as aforesaid, or any two of them, shall and are hereby authorized and empowered to visit such house, in manner directed by this Act; and such visitor, being a physician surgeon or apothecary, shall be allowed and paid, for every day he shall be employed in executing the duties imposed upon him by this Act, such sum out of the county rates as the justices in general quarter sessions shall be pleased to direct: Provided also, that in case of the death of any justice, physician, surgeon, or apothecary so appointed visitor as aforesaid, or of his refusal or inability by reason of illness or otherwise to act as such, it shall and may be lawful for the said justices, at any general or adjourned sessions of the peace, to appoint a visitor in the room of such justice, physician, surgeon, or apothecary, who shall die, or refuse or become unable to act as aforesaid; and the names of all such visitors so appointed at the *Michaelmas* quarter sessions, or at any general or adjourned sessions of the peace, shall, within seven days after the appointment, be published in some newspaper circulated in the county wherein such house shall be situate: Provided always, that no physician surgeon or apothecary, interested in or employed in any such house, shall be appointed any such visitor.

XII. And be it further enacted, That a person duly appointed by the justices of the peace at the quarter sessions, shall act as clerk to the visitors so appointed as aforesaid, in the same manner and for the same purposes in the execution of this Act as the clerk to the said commissioners is hereby directed to act; and shall at the first meeting of such visitors take the oath required by this Act to be taken by the clerk of the said commissioners to be appointed under this Act *mutatis mutandis*, such oath to be administered by one of such visitors; and the said clerk so appointed shall be paid out of the county rate for his services, as well in granting licences as in attending the said visitors, such remuneration as the justices in quarter sessions assembled shall think fit.

XIII. And be it further enacted, That all persons who shall apply for a licence for keeping a house for the reception of two or more insane persons, shall give notice to the clerk for the time being of the said commissioners, or to the clerk of the peace for the county, fourteen days at the least prior to any of the quarterly meetings of the said commissioners, or to any general quarter session for the county, which notice shall contain the true christian and surname of the person so applying for a licence, and the place of abode of every such person; and in case such person so applying does not propose to reside himself in the said house, the name and previous occupation of the superintendent who is to reside therein; and such notice, when given, upon application for a licence being first made, shall be accompanied by a plan of every such house proposed to be licensed, to be drawn upon a scale of not less than one eighth of an inch to a foot, with a description of the situation thereof, and of every room and apartment therein, and a statement of the greatest number of patients proposed to be received into such house; such notice and plan to be left with the said clerk of the commissioners or clerk of the peace, and to be by him laid before the said commissioners at their meeting, or before the justices at their next general quarter sessions.

XIV. And be it further enacted, That notice of any additions or alterations that shall have been made to any house licensed under this Act, shall be given to the clerk of the commissioners or to the clerk of the peace

within one calendar month next after the completion thereof, and a plan of all such additions and alterations, to be drawn upon the scale aforesaid, shall be within the same time transmitted to the clerk of the commissioners, or the clerk of the peace of the county wherein such house shall be situate, by the person to whom the licence shall have been granted; and if any person shall wilfully and with intention to deceive omit giving a full and complete plan of the whole of the house to be licensed, or of any and all such additions and alterations as shall have been made, he shall be guilty of a misdemeanor.

XV. And be it further enacted, That every such licence shall be made out by the clerk of the commissioners or the clerk of the peace, as the case may require, and the same shall be renewed every year; and for the first and every annual licence to be granted to any person for keeping a house for the reception of two or more insane persons, there shall be paid to the clerk of the commissioners or clerk of the peace, exclusive of the sum to be paid for the stamp, the sum of two shillings and sixpence for every parish patient, and the sum of ten shillings for every other insane person specified therein as proposed to be received into such house: Provided always, that for no licence to be so granted shall be paid less than fifteen pounds; and that all monies to be received for such licences shall be retained by the clerk of the commissioners or clerk of the peace, and from such monies all the expences required to be disbursed in the execution of this Act shall be paid and defrayed, upon the order of the said commissioners or visitors; and such clerk of the commissioners or clerk of the peace shall keep a true and correct account of all such receipts and payments, which account shall be made up, by the clerk of the commissioners, to the thirty-first day of *May*, and by the clerk of the peace, to the day before the *Michaelmas* quarter sessions in every year, and shall be signed by five or more commissioners and two or more visitors, as the case may be; and the said account, when made out by the clerk of the said commissioners, shall be transmitted to the commissioners of his Majesty's treasury, who shall thereupon, if they shall deem it necessary, direct the balance to be paid into the exchequer, to the account of the consolidated fund; and if there shall be any balance due to the said clerk to the commissioners, it shall be lawful for the commissioners of his Majesty's treasury, or any three or more of them, and they are hereby empowered, to cause the same to be issued and paid from time to time out of any money in the exchequer applicable to the growing produce of the consolidated fund; but the said account, when made out by the clerk of the peace in any county, shall be laid before the justices at their *Michaelmas* quarter sessions; and if it shall appear by the said account that there is a balance in the hands of the clerk of the peace, the same shall forthwith be paid, by an order of the said visitors, to the treasurer of the county, in aid of the county rate; and when there shall be found to be any balance due to such clerk of the peace, such balance shall be paid to him by the treasurer of the county out of the county rate, an order for such payment being made and signed by two or more justices.

XVI. Provided always, and it is hereby enacted, That all licences to be granted by the said commissioners or justices shall be duly stamped with a ten shilling stamp, and shall be under the hands and seals of five or more of the said commissioners, two of whom shall not be physicians or surgeons, or of three or more of the said justices, as the case may require; and every such licence shall contain, as well the christian and surname and the profession or occupation of the person to whom the same shall be granted, as also the christian and surname of the superintendent or head keeper of the house so proposed to be licensed, in case the person so applying does not intend to reside therein; and also the said licence shall specify the greatest number of patients, distinguishing parish from other insane patients, to be received under the authority thereof, in the house so licensed.

XVII. And be it further enacted, That if at any time a majority of any five of the commissioners appointed under this Act, (one whereof not be-

No. XIV.
9 Geo. IV.
c. 41.



Licences to be made out by the Clerk, and to be renewed yearly.

Charge for Licences.
Application of Monies.

Clerk to keep an Account of Receipt and Expenditure, which shall be made up yearly.

Such Account to be transmitted to the Lords of the Treasury, who may apply or make up the Balances.

Balances in Hand of or due to Clerk of the Peace.

Licences to be stamped, and to contain certain Particulars.

Revoking of Licences.

No. XIV.
9 Geo. IV.
c. 41.

ing a physician or surgeon,) or any three visitors appointed under this Act, shall recommend to his Majesty's principal secretary of state for the home department for the time being, that any licence or licences granted by virtue of this Act should be revoked, it shall and may be lawful for such secretary of state, after making such inquiries as he shall think necessary, to revoke the same by an instrument under his hand and seal; such revocation to take effect at a period not exceeding three calendar months from the time notice thereof shall have been given in the *London Gazette*; and a copy of such instrument of revocation shall be transmitted to the person to whom such licence shall have been granted, his or her executors or administrators, by the clerk of the commissioners or visitors in their respective jurisdictions, before any such publication shall take place: Provided always, that in case of such revocation being proposed to such secretary of state, notice in writing shall be given to the parties so complained of, seven days' previous to the transmission of such recommendation to such secretary of state.

When Commissioners or Justices shall refuse to renew any Licence, Notice thereof to be given to the Secretary of State.

XVIII. Be it further enacted, That in case the said commissioners or justices shall refuse to renew any licence for keeping a house for insane patients, notice of such refusal shall be given in manner herein-before mentioned in the case of revoking any such licence, and his Majesty's principal secretary of state for the home department for the time being shall be empowered, upon the representation of the said commissioners or justices respectively, by an instrument under his hand and seal, to be delivered within one month after receiving such representation, to sanction and confirm the refusal of the said commissioners or justices to renew such licence: Provided nevertheless, that the original licence of such house shall remain in force until his Majesty's said secretary of state shall have confirmed as aforesaid the resolution of the said commissioners or justices not to renew such licence.

No House to be kept without a Licence.

XIX. And be it further enacted, That from and after the expiration of three calendar months next after the commencement of this Act, it shall not be lawful for any person to keep a house for the reception of any two or more insane persons, without a licence for that purpose first had and obtained in the manner directed by this Act, and every person so keeping such house as aforesaid, without having such licence, shall be deemed guilty of a misdemeanor: Provided always, that no one licence for the reception of insane persons shall authorize any person to keep more than one house for such purpose, nor shall any licence granted by virtue of this Act continue in force for any longer time than thirteen calendar months: Provided also, that all licences which shall have been heretofore granted, or which shall hereafter be granted under this Act, for keeping houses for the reception of two or more insane persons, and notwithstanding the death of any person to whom any such licence shall have been granted respectively, shall remain in full force until the period for which they shall have been granted shall have expired, any thing in this Act to the contrary thereof notwithstanding, unless terminated by revocation by his Majesty's principal secretary of state for the home department for the time being, as herein mentioned.

Houses to be inspected by Commissioners or Visitors; but not by their Clerk.

XX. And be it further enacted, That every house licensed for the reception of two or more insane persons shall be visited by three at least of the said commissioners, one of whom shall not be a medical practitioner, within their jurisdiction, or by two at least of the said visitors appointed at quarter sessions, at least four times in every year, on such days and at such hours of the day between the hours of eight in the morning and six in the evening from the twenty-first of September to the twenty-first of March, and between the hours of six in the morning and eight in the evening from the twenty-first of March to the twenty-first of September in each year, and with or without notice, and for such length of time as they shall think fit; and they are hereby empowered to examine the persons confined therein in such manner as they shall see fit: Provided always, that it shall not be lawful for the clerk of the said commissioners or of the said visitors to inspect or visit any of the patients confined in such house.

XXI. And be it further enacted, That if the keeper or superintendent of any such licensed house, or any keeper or servant employed in the same, shall fraudulently conceal or attempt to conceal any person detained as insane in such house from the sight knowledge or inspection of any such commissioners or visitors, or from any medical or other person authorized under the provisions of this Act to visit and inspect any such house and the patients confined therein, every person so offending shall be deemed guilty of a misdemeanor.

specification of Commissioners to be deemed

XXII. And be it further enacted, That it shall and may be lawful to and for the said commissioners or visitors, upon receiving information upon oath, which oath they are or any one of them is hereby empowered to administer, that the party making such oath hath cause to suspect and doth verily believe that some malpractices have taken place in any house licensed under the provisions of this Act, which malpractices cannot be ascertained by examination and inspection during the day, respectively to visit and to inspect any such house at such hour of the night as to them shall seem advisable for the purpose of examining into the fact of such alleged malpractices, but no further or otherwise.

XXIII. And for the better enabling the commissioners or visitors executing this Act to inquire into the several matters and things by this Act referred to them, be it enacted, That it shall be lawful to and for the said commissioners or visitors from time to time, as they shall see occasion, to require any person to appear before them to testify the truth touching any matters relating to the execution of the powers given by this Act; and every person who shall not appear before the said commissioners or visitors pursuant to such request, (without assigning some reasonable excuse for not appearing,) or appearing shall refuse to be sworn or examined on oath or affirmation, which oath or affirmation the said commissioners or visitors are hereby empowered to administer, and being thereof convicted before one of his Majesty's justices of the peace of the county in which such house is situated, upon information thereof upon oath made before any such justice, shall for every such neglect or refusal forfeit and pay such sum of money, not exceeding fifty pounds nor less than ten pounds, as such justice shall think fit and order.

XXIV. And be it further enacted, That there shall be kept in every house of reception for two or more insane persons a book or register, in which the said commissioners and visitors, within their respective jurisdictions, shall at every such visitation make minutes in writing of the state and condition of such houses which they shall so visit, as to the care of the patients therein, and all such other particulars as they shall think deserving of their notice, together with their observations thereupon.

XXV. And be it further enacted, That the clerk of the commissioners, and the clerk of the visitors respectively, shall make or cause to be made in writing a transcript of such minute, to be entered in a register to be kept for that purpose by the clerk of the said commissioners, or clerk of the visitors, and the same shall be approved and signed by three at the least of the said commissioners, or by the said visitors, or any two of them, within their respective jurisdictions; and the clerk of such visitors shall, within fourteen days after such visitation shall have been made, transmit a copy of such transcript or minute to the clerk of the commissioners, who shall enter the same into a general register to be kept for that purpose by the clerk of the commissioners.

XXVI. And be it further enacted, That the said clerk of the commissioners, and the clerks of the visitors, within their respective jurisdictions, shall, within one month previous to the first day of June in every year, prepare a full and complete report of the several houses within their respective jurisdictions for the reception of insane persons, and of every patient confined therein, or who shall have been confined therein within the twelve months preceding, according to the form in the schedule (A.) hereunto annexed; of which report a transcript shall be transmitted by the clerk of the commissioners, or the clerk of the visitors, to his Majes-

No. XIV.
9 Geo. IV.
c. 41.

Concealing any Insane Person from the Inspection of Commissioners upon Information of Malpractices taking place in any licensed House, may visit the same at Night.

Commissioners may summon Witnesses, who shall be subject to Penalty for Neglect.

At such Visitation Commissioners to make Minutes.

Minutes to be transcribed into a Register.

Annual Report of all Houses and Patients therein to be made, and a Transcript sent to the Secretary of State and to the Clerk of Commission

No. XIV.
9 Geo. IV.
c. 41.

Alphabetical
List of Persons
confined to be
made there-
from.

A Transcript of
so much of Re-
port as regards
certain Patients
to be made to
the Lord
Chancellor.

Insane Persons
or Lunatics not
to be received
into licensed
Houses without
a Certificate.

Certificate of
Admission.

ty's principal secretary of state for the home department; and the clerk of such visitors shall transmit a copy of such report to the clerk of the commissioners, who shall enter the same into a register to be kept for that purpose by the clerk of the commissioners.

XXVII. And be it further enacted, That the clerk of the commissioners shall prepare from such reports an alphabetical list of all persons confined, or who have been confined within the last twelve months, in such licensed houses, together with a reference to the same respectively.

XXVIII. Provided always, and be it further enacted, That a transcript of so much of the said report as shall have reference to insane persons who shall have been found lunatic idiot or of unsound mind under a commission issued by the lord chancellor or lord keeper or commissioners of the great seal, of *Great Britain*, being intrusted by virtue of the King's sign manual with the care and commitment of the custody of the persons and estates of persons found lunatic idiot or of unsound mind, shall be sent to the lord chancellor or lord keeper or commissioners of the great seal intrusted as aforesaid.

XXIX. And be it further enacted, That no person, not being a parish patient, shall be received into any house kept for the reception of two or more insane persons in that part of the United Kingdom called *England*, without a certificate in the manner directed by this Act; and if any person shall knowingly and wilfully receive any insane person, or person represented or alleged to be insane, to be taken care of or confined in any such house licensed for the reception of two or more such persons, without such certificate bearing date not more than fourteen days previous to such reception, and shall not at the time of receiving such patient make a minute in writing or entry of the christian and surname, occupation and place of residence of the person or persons by whom such patient shall be brought, or by whose authority such patient shall be delivered to his care, every person so offending shall be deemed guilty of a misdemeanor.

XXX. And be it further enacted, That every certificate upon which any order shall be given for the confinement of any person (not a parish patient) in a house kept for the reception of two or more insane persons, shall be signed by two medical practitioners, each of them being a physician surgeon or apothecary, who shall have separately visited and personally examined the patient to whom it relates; and such certificate shall state that such insane person is a proper person to be confined, and the day on which he or she shall have been so examined; and also the christian and surname and place of abode of the person by whose direction or authority such patient is examined, and the degree of relationship or other circumstance of connection between such person and the insane person; and the name, age, place of residence, former occupation, and the asylum, if any, in which such patient shall have been confined; and whether such person shall have been found lunatic or of unsound mind under a commission issued for that purpose by the lord chancellor or lord keeper or commissioner of the great seal intrusted as aforesaid; and every such certificate for the confinement of any person in a house licensed under this Act within the jurisdiction of the said visitors shall, if the same be not signed by two medical practitioners, state the special circumstances, if any, which shall have prevented the patient being separately visited by two medical practitioners; and any patient may be admitted into any such licensed house upon the certificate of one medical practitioner only under the special circumstances aforesaid, provided such certificate shall be further signed by some other medical practitioner within seven days next after the admission of such patient into any such licensed house as aforesaid, and any person who shall, knowingly and with intention to deceive, sign any such certificate, untruly setting forth any such particulars required by this Act, shall be deemed guilty of a misdemeanor; nevertheless, if any special circumstance shall exist which may prevent the insertion of any of the particulars aforesaid, the same shall be specially stated in such certificate: Provided always, that no physician surgeon or apothecary shall sign any certificate of admission to any

Physicians, &c.,
not to sign Cer-
tificates of Admission if interested.

house of reception for two or more insane persons, of which he is wholly or partly the proprietor, or the regular professional attendant; and any physician surgeon or apothecary, who shall sign or give any such certificate, without having visited and personally examined the individual to whom it relates shall be deemed to be guilty of a misdemeanor.

XXXI. And be it further enacted, That no parish pauper shall be received into any house of reception for two or more insane persons without an order under the hands and seals of two justices of the peace, or an order signed by one of the overseers of the poor and the officiating clergyman of the parish to which such pauper shall belong, and also a certificate signed by one physician surgeon or apothecary, that such person is a proper person to be confined.

XXXII. And, in order that the said commissioners and visitors may know when any patient is received into any house of reception for two or more insane persons, be it further enacted, That the keeper of any such house shall and is hereby required, within the space of seven days next after the day on which any person shall have been received into such house, to transmit a copy of such orders and certificate as aforesaid to the clerk of the commissioners or to the clerk of the visitors; which order and certificate the said clerk of the commissioners or clerk of the visitors is hereby required forthwith to enter in a register to be provided for that purpose, with the christian and surname of each insane person so returned to him, and the asylum or house in which such lunatic is confined; and every keeper of any such house who shall knowingly and wilfully neglect so to do shall be deemed guilty of a misdemeanor.

XXXIII. And be it further enacted, That whenever any patient so confined in a house of reception of two or more insane persons shall be removed therefrom, or shall die, the keeper of such house shall, within three days next after such removal or death, transmit a written notice thereof to the clerk of the commissioners or clerk of the visitors, or to a justice of the peace, as the case may be; and every keeper of any such house, who shall upon any such removal or death knowingly and wilfully neglect so to do, shall be deemed guilty of a misdemeanor.

XXXIV. And be it further enacted, That if any person shall apply to one of the commissioners, or any justice of the peace of the county in which any house of reception for two or more insane persons is situate, in order to be informed whether any particular person is confined in any of the said houses of reception for two or more insane persons, and the said commissioner or justice shall think it reasonable to permit such inquiry to be made, and shall sign an order directed to the clerk of the commissioners or clerk of the visitors for that purpose, the said clerk of the commissioners or clerk of the visitors is hereby required, upon the receipt of such order, to make search; and if it shall appear upon search that the person so inquired after is or has been confined in any of the said houses, the said clerk of the commissioners or clerk of the visitors shall immediately deliver to the person so applying, in writing, the name of the keeper in whose house the person so inquired after is or has been confined, the situation of such house, and a copy of the order and certificate upon which such person was received into such house, upon payment of the sum of seven shillings, and no more, for his trouble.

XXXV. And be it further enacted, That in every house of reception for two or more insane persons there shall, if it contain one hundred patients, be a resident physician surgeon or apothecary; and every such house, containing less than one hundred patients, in case such house shall not be kept by a physician surgeon or apothecary, shall be visited twice in every week by a physician surgeon or apothecary; and such resident attendant, or visiting physician surgeon or apothecary, is hereby respectively required to report to the keeper the condition of the house and state of health of the patients; and shall once in every week, enter and sign the same in a book of entries to be kept at every such house, according to the form in the schedule (B.) hereunto annexed; and such book of entries shall by the keeper of such house be regularly laid before the visiting commissioners

No. XIV.

9 Geo. IV.

c. 41.

Pauper Lunatics, how admissible.

Notice to be given to Clerk of the Commissioners, &c., within Seven Days after the Admission of every Patient.

The like Notice to be given on the Removal or Death of Patient.

In case of Inquiry, whether any particular Patient is in Confinement, the Commissioners, &c., may give an Order to the Clerk, who shall furnish the Information.

Houses to be visited by Medical Men.

No. XIV.
9 Geo. IV.
c. 41.

Persons by
whose Autho-
rity Patients
have been de-
livered to such
Houses, shall
visit or appoint
some Person to
visit them, once in Six Months.
Commissioners
may set at li-
berty Persons
improperly
confined.

Commissioners
and Visitors to
inquire and
state in the Re-
gister Book
whether Divine
Service is per-
formed in such
Houses.

If not perform-
ed, the Keeper
to state the
Reason.

Medical or
other Persons
may be em-
ployed to in-
spect Houses.

or visitors for their inspection, who are hereby required to sign the same in testimony of its production.

XXXVI. And be it further enacted, That the person by whom or by whose authority such patient shall have been delivered to the care of the keeper of any such house, shall in person, or by some person duly appointed by him in writing under his hand and seal, such appointment to be renewed for each time, visit the patient so delivered as aforesaid, once at least in every six months during his confinement; and shall enter in the journal kept at such house for registering the visits of the commissioners or visitors respectively, as herein-before directed, his name, and the date of his visit; and any person so appointed as aforesaid shall deposit such appointment with the keeper of the said house.

XXXVII. And be it further enacted, That if it shall appear, after three separate and distinct visits to be made by the said commissioners or visitors within their respective jurisdictions, three of which commissioners shall be physicians or surgeons, or one of which visitors shall be a medical practitioner, twenty-one days at the least to intervene between each visit, that any person is detained in any such house without sufficient cause, and notice thereof shall have been duly given to the keeper of such house, and to the person by whose authority such person was sent, it shall and may be lawful for the said commissioners at one of their quarterly meetings, or at a meeting specially summoned at three days' notice, or for the justices in quarter sessions, or at a meeting specially summoned at seven days' notice, to set such person at liberty, or otherwise to act under the circumstances as the case may seem to require: Provided always, that such power shall not extend to the case of any lunatic who shall have been found of insane mind under a commission issued for that purpose by the lord chancellor, or lord keeper or commissioners of the great seal intrusted as aforesaid, nor to any lunatic confined under any order or authority of his Majesty's principal secretary of state for the home department.

XXXVIII. And whereas the hopes and consolations of religion may soothe and compose the minds of patients, and thereby tend to subdue the malady under which they are suffering; be it further enacted, That the commissioners and visitors, upon their several visitations herein-before mentioned, shall inquire whether and at what times divine service is read and performed for the benefit and consolation of any of the patients, or what religious aid they receive under any circumstances of intellectual improvement; and such commissioners and visitors shall state, in the book or register herein-before directed to be kept for registering the visits of the commissioners or visitors respectively, the result of such their inquiry, with such observations as they shall think useful or necessary; and in those houses where it shall appear that divine service is not performed, or that religious communication with any minister is not permitted, the keeper or keepers of such house or houses shall state in the said book or register the reason or reasons thereof.

XXXIX. And be it further enacted, That it shall and may be lawful for the lord chancellor, or lord keeper or commissioners of the great seal intrusted as aforesaid, or the lord chief justice of the Court of King's Bench, or the lord chief justice of the Court of Common Pleas, or his Majesty's principal secretary of state for the home department, if he shall see fit, to employ any commissioner appointed under this Act, or medical or other person, to inspect and inquire into the state of any lunatic asylum public hospital or other house or place for the confinement of insane persons, and to report to him the result of such inspection and inquiry; and every such medical or other person so employed by him shall be paid or allowed such sum of money for his attendance and trouble, as to his Majesty's principal secretary of state for the home department shall seem an adequate and reasonable allowance; such expences to be charged on the contingency fund of the home office, or on the county rate, as the case may be.

XL. And be it further enacted, That no person shall receive into his exclusive care and maintenance, except he be a relative or a committee appointed by the lord chancellor, or lord keeper or commissioners of the great seal intrusted as aforesaid, under pain of being deemed guilty of misdemeanor, any one insane person, or person represented or alleged to be insane, without first having an order and certificate signed by two medical practitioners, each of them being a physician surgeon or apothecary, as is required on the admission of any insane person into a licensed house; and that every such person so having received into his charge any insane person as aforesaid, shall within five days thereof transmit to the clerk of the commissioners in London a copy of such order and certificate, and shall also state the parish and county wherein such house shall be situate, and the name of the occupier thereof, and such order certificate and return shall be sealed, and indorsed "Private Return;" and also on the first day of January, or within seven days thereof, in every year, every such person shall also transmit to such clerk a certificate signed by two physicians surgeons or apothecaries, describing the then actual state of such insane person; and in case of the death or removal of such insane person, he shall forthwith notify the same to such clerk; all which said orders, certificates, returns, and notifications shall be filed and duly preserved, and the said clerk shall make therefrom a separate register, containing the true christian and surname of each insane person so confined, together with the place of confinement, which register, together with the said orders, returns, certificates, and notifications, shall be open only to the inspection of his Majesty's principal secretary of state for the home department, and of the lord high chancellor, or lord keeper or commissioners of the great seal intrusted as aforesaid, and of such other persons as shall be authorized to inspect the same, by an order under their respective hands and seals.

XLI. Provided always, and be it further enacted, That it shall and may be lawful for his Majesty's said principal secretary of state, in all cases in which any patient shall die or have been discharged as cured, to direct, if he shall see fit, that the name of such patient shall be wholly erased from the said register.

XLII. Provided always, and be it further enacted, That it shall and may be lawful for the lord high chancellor, or lord keeper or commissioners of the great seal intrusted as aforesaid, or his Majesty's principal secretary of state for the home department, if they shall see fit, at any time or times, by any order by either of them directed to the said commissioners or to any other person whom they shall think fit to appoint, to require the said commissioners, or other person so appointed, to visit and examine any person confined as an insane person, who shall be confined in the care of any relative or friend, or in the exclusive care and maintenance of any other person, and to make a report to the lord chancellor, lord keeper or commissioners of the great seal intrusted as aforesaid, or to his Majesty's principal secretary of state of such matters as in such order, they shall be directed to inquire into: Provided always, that the said secretary of state shall have no authority under this Act to order a visitation or examination of any patient under a committee appointed by the lord high chancellor, the lord keeper or commissioners of the great seal intrusted as aforesaid.

XLIII. And, for the more easy and speedy conviction of offenders against this Act, be it further enacted, That all justices of the peace, before whom any person shall be convicted of any offence against this Act, shall and may cause the conviction to be drawn up in the following form of words, or in any other form of words to the same effect, as the case shall happen; *videlicet*,

'BE it remembered, That on the _____ day of _____
' in the year of our Lord _____

' before us, _____
' peace for the county of _____

' and the time and place when and where the same was committed, as the

day of _____

A. B. is convicted
two of his Majesty's justices of the
[specifying the offence,

No. XIV.
9 Geo. IV.
c. 41.

Regulations as
to Persons with
whom Lunatics
are privately
confined.

Secretary of
State may erase
Name of Lunatic
from Register.

Lord Chancellor and Secretary of State may order Visitation of Patients in care of Relatives, &c.;

but not Patients under an appointed Committee.

Convictions to be drawn up in the following Form.

No. XIV.
9 Geo. IV.
c. 41.

Clerk of the
Commissioners
to enforce Act, and recover Penalties.

Proceedings of
Proprietors to
be justified in
course of Com-
mon Law.

Recovery and
Application of
Penalties.

‘ *cess shall be.*] Given under our hands and seals the day and year
‘ aforesaid.’

XLIV. And be it further enacted, That it shall and may be lawful for the clerk of the commissioners, or clerk of the peace of the county where any house for the reception of insane persons is situate, and he is hereby required, to enforce the due execution of this Act, and to sue for and recover all penalties or forfeitures granted by this Act.

XLV. And whereas it is not intended by this Act to give the proprietors or keepers of any house to be so licensed as aforesaid, or any other person concerned in confining any of his Majesty's subjects therein, any new justification, from their being able to prove that the persons so confined have been sent there by such direction and advice as are required by this Act; be it therefore declared and enacted, That in all proceedings which shall be had under his Majesty's writ of *habeas corpus*, and in all indictments informations and other actions that shall be preferred and brought against any person or persons for confining or ill-treating any of his Majesty's subjects in any of the said houses, the parties complained of shall be obliged to justify their proceedings according to the course of the common law, in the same manner as if this Act had not been made.

XLVI. And be it further enacted, That all complaints and informations of and for offences against this Act, or any order to be made in pursuance thereof, except in cases where the manner of hearing and determining thereof is herein-before otherwise directed, shall and may be made before one or more justice or justices of the peace for the county or place where in the offence shall be committed, and such justice or justices is and are hereby authorized and empowered to take cognizance thereof, and to summon the person or persons complained of to appear before him or them, or upon complaint upon oath to issue his or their warrant or warrants for the apprehension of any such person or persons, and upon appearing or not appearing of such person or persons pursuant to such summons, or upon such person or persons being apprehended with such warrant, to hear the matter of every such complaint and information, by examination of any witness or witnesses upon oath, and to make such determination thereon as such justice or justices shall think proper; and upon conviction of any person, such justice or justices shall and may issue a warrant under his or their hand and seal or hands and seals, for levying the fine penalty or forfeiture by virtue of this Act imposed for such offence, by distress and sale of the goods and chattels of the persons so convicted; and it shall and may be lawful for any such justice or justices to order any person so convicted to be detained and kept in the custody of any constable or other peace officer until return can be conveniently made to such warrant of distress, unless the said offender shall give sufficient security, to the satisfaction of such justice or justices, for his appearance before the said justice or justices on such day as shall be appointed for the return of such warrant of distress, such day not being more than seven days from the time of taking any such security, and which security the said justice or justices is and are hereby empowered to take by way of recognizance or otherwise; but if upon the return of such warrant of distress it shall appear that no sufficient distress can be had thereupon to levy the said penalty or forfeiture, and such costs and charges as aforesaid, and the same shall not be forthwith paid, or in case it shall appear to the satisfaction of such justice, either by the confession of the offender or offenders, or otherwise, that the offender or offenders hath or have not sufficient goods and chattels whereon such penalties, forfeitures, fines, costs, and charges may be levied were a warrant of distress issued, such justice shall not be required to issue such warrant of distress; and thereupon it shall be lawful for such justice or justices, and he or they is and are hereby authorized and required, by warrant under his or their hand and seal or hands and seals, to commit such offender to the common gaol or house of correction for any term not exceeding three calendar months, unless such penalty or forfeiture, and all reasonable charges at-

tending the recovery thereof, shall be sooner paid and satisfied; and all such fines penalties and forfeitures, when recovered, shall, where the application is not otherwise directed by this Act, be paid into the hands of the overseers of the poor of the parish where the offence shall be committed, and the overplus (if any) arising from such distress and sale, after payment of the penalty and the costs and charges attending the same, shall be returned, upon demand, to the owner of the goods and chattels so distrained.

XLVII. Provided always, and be it further enacted, That any person or persons thinking himself herself or themselves aggrieved by any order or judgment made or given, or by the order or determination of any justice or justices of the peace in pursuance of this Act, may, within four calendar months after such order shall be made or given, complain to the justices of the peace at the general or quarter sessions of the peace to be held in and for the county wherein the offence shall be committed, the person or persons appealing having first given at least fourteen days' clear notice in writing of such appeal, and the nature and matter thereof, to the person or persons appealed against, and forthwith after such notice entering into a recognizance before some justice of the said county, with two sufficient securities conditioned to try such appeal and to abide the order and award of the said court thereupon; and the said justices, upon due proof of such notice and recognizance having been given and entered into, shall in a summary way hear and determine such complaint at such general or quarter sessions of the peace to be held for the said county, or, if they think proper, adjourn the hearing thereof until the next general or quarter sessions of the peace to be held for the said county, and if they see cause may mitigate any forfeitures or fines, and may order any money to be returned which shall have been levied in pursuance of such order or determination, and shall and may also award such further satisfaction to be made to the party injured, or such costs to either of the parties, as they shall judge reasonable and proper; and all such determinations of the said justices shall be final binding and conclusive upon all parties, to all intents and purposes whatsoever.

XLVIII. And be it further enacted, That if any action or suit shall be commenced or brought against any person for any thing done in pursuance of this Act, the same shall be commenced within six calendar months next after the fact committed, and shall be laid or brought in the county city or place where the cause of action shall have arisen, and not elsewhere; and the defendant in every such action or suit shall and may at his election plead specially, or the general issue not guilty, and give this Act and the special matter in evidence at any trial to be had thereupon, and that the same was done in pursuance and by the authority of this Act; and if the same shall appear to be so done, or that such action or suit shall be brought in any other county city or place, or shall not have been commenced within the time before limited for bringing the same, that then the jury shall find a verdict for the defendant; and upon a verdict being so found, or if the plaintiff shall be nonsuited, or discontinue his her or their action or suit after the defendant shall have appeared, or if upon demurrer judgment shall be given against the plaintiff, then the defendant or defendants shall recover treble costs and have such remedy for recovering the same as any defendant hath or have in any other cases by law.

XLIX. Provided always and it is hereby further enacted, That it shall not be lawful for any person whatsoever to commence, prosecute, enter, file, or prefer any action, bill, plaint, information, or indictment against any person under or by virtue of this Act, unless the same be commenced, prosecuted, entered, filed, or preferred by order of the said commissioners at their said quarterly meeting, or by the justices at their general quarter sessions within their respective jurisdictions; and if any action, bill, plaint, information, or indictment shall be commenced, entered, filed, or preferred by or in the name of any person whatsoever, except upon such order as aforesaid, the same, and all proceedings thereupon had, shall be null and void, and the court or courts, justice or justices of the peace,

No. XIV.

9 Geo. IV.

c. 41.

Appeal to Quarter Sessions.

Limitation of Actions.

General Issue.

Treble Costs.

Actions not to be brought except by Order of Commissioners.

No. XIV.
9 Geo. IV.
c. 41.

Act not to extend to Bethlehem Hospital or to Lunatic Asylums established under
48 G. 3. c. 96.
or 9 G. 4. c. 40.

Nothing herein to extend to public Hospitals or Institutions ;

except as to Certificates of Admission, to Visitations, and to the Transmission of Names of Patients.
Interpretation of Act.

55 G. 3. c. 194.

6 G. 4. c. 133.

where or before whom such action, bill, plaint, information, or indictment is or shall be, or commenced, prosecuted, entered, filed, or preferred, shall not permit or suffer any proceeding or proceedings to be had ; and no commissioner or justice shall in anywise be liable to any criminal proceeding or civil action for any reasons to be given in the execution of this Act.

L. Provided always, and be it further enacted, That nothing in this Act contained shall extend or be construed to extend to the royal hospital of *Bethlehem*, or to any building erected adjacent thereto for the confinement of criminal lunatics, or to the royal military or naval hospitals, or to any lunatic asylum already erected and established under an Act passed in the forty-eighth year of the reign of his late Majesty King *George the Third*, intituled *An Act for the better Care and Maintenance of Lunatics, being Paupers or Criminals*, in England, or hereafter to be erected and established under the provisions of an Act passed in the ninth year of the reign of his present Majesty, intituled *An Act to amend and consolidate the Laws relating to the Erection Maintenance and Regulation of County Lunatic Asylums, and to the Care and Maintenance of Lunatics, being Paupers or Criminals, in England*.

L.I. Provided also, and be it further enacted, That nothing in this Act contained shall extend to any public hospital or parts of public hospitals, or other charitable institutions, supported wholly or partly by voluntary contributions, in which lunatics are received, or to any lunatic asylum built and established by voluntary contributions, and supported by applying the excess of payments of the more affluent in reduction of the payment by persons in more limited circumstances, excepting in as far as relates to certificates of admission, and visitations appointed by the lord chancellor, or lord keeper or commissioners of the great seal, or the lord chief justice of the Court of King's Bench, or the lord chief justice of the court of common pleas, or his Majesty's principal secretary of state for the home department, and the transmission to the clerk of the commissioners' annual report, as herein-before directed.

L.II. And, in order to remove doubts as to the meaning of certain words in this Act, be it enacted, that the word "county" shall be deemed to include any county, riding, division of the county of *Lincoln*, liberty, county of a city, county of a town, city, cinque port, or town corporate ; that the word "parish" shall be deemed to include any township, hamlet, vill, tithing, extra-parochial place or place maintaining its own poor : that the words "county rate" shall be deemed to include any funds assessed upon or raised in or belonging to any county, riding, division of the county of *Lincoln*, liberty, county of a city, county of a town, cinque port, or town corporate, in the nature of county rates, and applicable to the purposes to which county rates are applicable ; that the word "visitor" shall be deemed to include all justices, physicians, surgeons, or apothecaries, appointed at a general or adjourned quarter sessions to visit houses of reception for two or more insane persons ; that the words "insane persons" shall be deemed to include any lunatic or dangerous idiot ; that the words "parish patient" shall be deemed to include any person sent to and maintained at any house licensed for the reception of insane persons wholly or in part at the expence of any parish ; that the words "clerk of the peace" shall be deemed to include any person acting as such, or any deputy duly appointed ; that the word "apothecary" shall be deemed to include any person authorized to practise as such under the Act passed in the fifty-fifth year of King *George the Third*, intituled *An Act for the better regulating the Practice of Apothecaries throughout England and Wales*, or under an Act passed in the sixth year of *George the Fourth*, intituled *An Act to amend and explain the said Act of the fifty-fifth year of his late Majesty* ; and the words "treasurer of the county" shall be deemed to include any officer who has the custody of any funds assessed upon or raised in or belonging to any county, riding, division of the county of *Lincoln*, liberty, county of a city, county of a town, cinque port, or town corporate, in the nature of county rates, and applicable to the purposes to which county rates are applicable ; and that the word "person" shall

be deemed to include any number of persons; and that the meaning of the aforesaid words shall not be restricted, although the same may be subsequently referred to in the singular number and masculine gender only.

LIII. And be it enacted, That the powers and authorities granted by this Act shall be deemed and taken to be a public Act, and shall be judicially taken notice of as such by all judges justices and others, without being specially pleaded.

LIV. And be it further enacted, That this Act, and the several matters and things therein contained, shall commence and take effect from and after the first day of *August* and not sooner, and shall continue in force for the term of three years, and from thence to the end of the next session of Parliament.

No. XIV.
9 Geo. IV.
c. 41.

Public Act.

Commence-
ment and Con-
tinuance of Act.

SCHEDULE (B.)

No. XV.
10 Geo. IV.
c. 18.

WEEKLY REGISTER to be kept in each House for the Inspection
of Commissioners or Visitors.

Number of curable Men.	Number of incurable Men.	Number of curable Women.	Number of incurable Women.	Number of Men under Restraint.	Number of Women under Restraint.	General Remarks.

In Cases of Restraint, the Necessity to be certified by the Physician
Surgeon or Apothecary.

[No. XV.] 10 Geo. IV. c. 18.—An Act to explain amend and
alter the Act of the Ninth Year of the Reign of his pre-
sent Majesty, for regulating the Care and Treatment of
Insane Persons in *England*.—[14th May 1829.]

WHEREAS an Act was passed in the ninth year of the reign of his
present Majesty, intituled *An Act to regulate the Care and Treatment*
of Insane Persons in England: And whereas doubts have arisen as to
some of the provisions of the said Act, and the same requires to be
amended and altered, for the more effectually carrying into execution the
beneficial purposes thereof; be it therefore enacted by the King's most
excellent Majesty, by and with the advice and consent of the Lords Spir-
itual and Temporal, and Commons, in this present Parliament assembled,
and by the authority of the same, That from and after the passing of this
Act it shall and may be lawful to and for any five or more of the com-
missioners appointed under the authority of the said recited Act, (two of
whom at least shall not be physicians or surgeons,) to assemble them-
selves when and as often as they shall think fit, for the purpose of exe-
cuting and performing the several matters and things by the said recited
Act and by this Act entrusted to them, notice being given under their
hands to require the clerk of the said commissioners to convene a meet-
ing of the commissioners; and the said clerk is hereby required and com-
manded duly to summon the rest of the said commissioners four days
before such intended meeting.

II. And be it further enacted, That the commissioners so met as
aforesaid shall and may, if they shall so think fit, grant or renew, at any
such meeting, or at any adjourned quarterly meeting, licences to keep
houses for the reception of two or more insane persons; provided that
if at any such meetings any application for such licence shall be made for
the first time, all such notices plans and statements shall be given and
made by the applicant, as if such application had been made at any of

9 G. 4. c. 41.

Five Commis-
sioners may as-
semble for ge-
neral Purposes
at any Time,
Notice of such
Meeting having
been given by
the Clerk.

Commissioners
at such Meet-
ings may grant
or renew Li-
cences.

No. XV.

10 Geo. IV.

c. 18.

the quarterly meetings of the said commissioners; and such notices plans and statements shall be given and made fourteen days at the least before the said intended meeting: Provided also, that any such licence, so granted, may be confirmed altered or amended at the next quarterly meeting of the said commissioners; provided also, such licence shall cease and determine and be of no effect at the expiration of fifteen days from and after the holding of such quarterly meeting, unless then confirmed by the said commissioners.

Commissioners
may reduce
Fees on Li-
cences in cer-
tain Cases.

III. And whereas it is by the said recited Act required, that for the first and every annual licence certain payments shall be made; be it enacted, That in cases where, from the change of the person or the place to be licensed, or other casual circumstances happening before the expiration of the original licence, it shall be requisite to grant or renew a licence for a less period of time than thirteen calendar months, it shall and may be lawful for the said commissioners and justices, as the case may be, to reduce the payments to be made on such licences to not less than five pounds in the whole.

Commissioners
may grant new
Licences to
other Persons,
or for other
Houses, in cer-
tain Cases.

IV. And whereas it is by the said recited Act provided, that in those cases only where the person licensed shall die, his licence shall continue in force; be it enacted, That if any person, duly licensed under this or the said recited Act, shall, by sickness or other infirmity, become incapable of keeping such house, or if any house so licensed shall be pulled down or occupied under the provisions of any Act for public purposes, or shall, by fire tempest or other unavoidable calamity, be rendered unfit for the accommodation of insane persons, it shall and may be lawful for the said commissioners, or any five or more of them, two of whom shall not be physicians or surgeons, at any quarterly or other meeting convened as aforesaid, upon the payment of not less than one pound for each licence, to grant a new licence to such other person as they shall think fit; and also to grant to the person whose house has so been rendered unfit, a licence to keep such other house for the accommodation of two or more insane persons, as the said commissioners, or any five of them as aforesaid, shall think fit: Provided always, that notice of such intended change of persons be given to the clerk of the commissioners fourteen days before the meeting at which such licence shall be granted; and provided also, that all such plans and statements shall be given and made of such new house as are required when application is made for a licence for the first time at the quarterly meeting of the said commissioners, and shall be delivered to the clerk of the commissioners fourteen days before the meeting at which such licence shall be granted: Provided also, that the cause of such change of house shall be duly specified in writing to the said clerk three days after the happening thereof.

Detached
Buildings to be
considered Part
of the House.

V. And be it enacted, That if any place or building detached from any licensed house, but belonging to or in anywise appertaining to such house, shall be used for the reception of one or more insane person or persons, such place or building shall be considered part of such house for all the purposes of this and the said recited Act.

Commissioners,
&c., may alter
the periodical
Visits of medi-
cal Attendants.

VI. And be it enacted, That when any house, licensed for the reception of two or more insane persons, shall be licensed to receive less than eleven insane persons, then and in such case it shall and may be lawful for any five or more of the said commissioners, two of whom shall not be physicians or surgeons, or any three of the said visitors, if they shall so think fit, to direct and permit, under their hands and seals, that such house shall be visited by the physician surgeon or apothecary once only in four weeks, instead of twice in every week, as required by the said recited Act; provided that fifteen days shall intervene between each of such visits.

Justices may
act at any Ge-
neral or Quarter
Sessions.

VII. And be it further enacted, That the justices shall have full power and authority to do any Act or Acts at any general or quarter sessions of the peace, as they are by the said recited Act authorized and enabled to do at the *Michaelmas* general or quarter sessions of the peace, and such Act or Acts shall have the same effect force and obligation as if they had been done at the *Michaelmas* general quarter sessions.

VIII. And whereas by the said recited Act the commissioners of his Majesty's treasury, or any three or more of them are empowered to cause to be paid out of the growing produce of the consolidated fund, any balance due on the thirty-first day of *May* in each year to the clerk of the commissioners appointed under the said recited Act: And whereas it is expedient that such powers should be amended; be it therefore further enacted, That from and after the passing of this Act it shall and may be lawful for the commissioners of his Majesty's treasury, or any three or more of them, on an application made to them in writing, to cause to be issued and paid, out of the growing produce of the consolidated fund, to the clerk of the said commissioners, from time to time, such sums of money as the commissioners of his Majesty's treasury shall deem fit, to defray the expences incurred under the provisions of the said recited Act and of this Act; provided such application to the commissioners of his Majesty's treasury for such money shall have been agreed upon at some quarterly or other meeting of the commissioners appointed under the said recited Act, and shall be signed by seven at the least of the said commissioners; provided also, it shall be shown to the satisfaction of the commissioners of his Majesty's treasury, that there is a balance due to the clerk of the said commissioners on account of expences so incurred as aforesaid.

IX. And be it further enacted, That an account of all money received for licences by the clerk of the commissioners appointed under the said recited Act, and of all money paid out of the consolidated fund under the provisions of this and the said recited Act, shall be made up to the first of *August* in each year, and such account shall specify the several heads of expenditure, and shall be laid before Parliament on or before the twenty-fifth day of *March* in each year, if Parliament shall be then sitting, or if Parliament shall not be then sitting, within one month after the then next sitting of Parliament.

X. And whereas it is desirable to define the precise places to which the powers and authorities of the said commissioners shall extend, be it therefore enacted, That the same shall extend to and include the cities of *London* and *Westminster*, and all and every part thereof, and the county of *Middlesex*, the borough of *Southwark*, and also the whole of the several parishes and places herein-after enumerated; *videlicet*, *Brixton*, *Buttersen*, *Barnes*, *Saint Mary Magdalene Bermondsey*, *Christ Church*, *Clapham*, *Saint Giles Cumberwell*, *Dulwich*, *Saint Paul Deptford*, *Graveney*, *Kew Green*, *Kennington*, *Saint Mary Lambeth*, *Mortlake*, *Merton*, *Mitcham*, *Saint Mary Newington*, *Norwood*, *Putney*, *Peckham*, *Saint Mary Rotherhithe*, *Roe-hampton*, *Streatham*, *Stockwell*, *Tooting*, *Wimbledon*, *Wandsworth*, and *Waltham*, in the county of *Surrey*; *Blackheath*, *Charlton*, *Deptford*, *Greenwich*, *Lewisham*, *Lee*, *Southend*, and *Woolwich*, in the county of *Kent*; and *East Ham*, *Leyton*, *Laytonstone*, *Low Layton*, *Plaistow*, *West Ham*, and *Walthamstow*, in the county of *Essex*; and that the jurisdiction of the said commissioners shall be deemed to include any townships, liberty, tithing, vill, extra-parochial place, or any other place within the cities of *London* and *Westminster*, and within seven miles thereof, and within the county of *Middlesex*; any thing herein contained to the contrary notwithstanding.

XI. And be it enacted, That any three of the said commissioners, one of whom shall not be a physician, shall have full power and authority, as they see occasion, to require any person to appear before them, to testify the truth touching any matters relating to the execution of the powers given by the said recited Act or this Act.

XII. And for the more effectual prosecution of offences punishable by summary conviction under the said recited Act or this Act, be it enacted, That where any person shall be charged, upon the oath of a credible witness, before one or more justices of the peace, for any offence against the provisions of this or the said recited Act, the justice or justices may summon the person charged to appear at a time and place to be named in such summons; and if he shall not appear accordingly, and upon proof of the due service of the summons upon such person, (by delivering the

No. XV.

10 Geo. IV.
c. 18.

The Treasury may issue to the Clerk of the Commissioners such Sums as shall be deemed fit to defray the Expences of this Act.

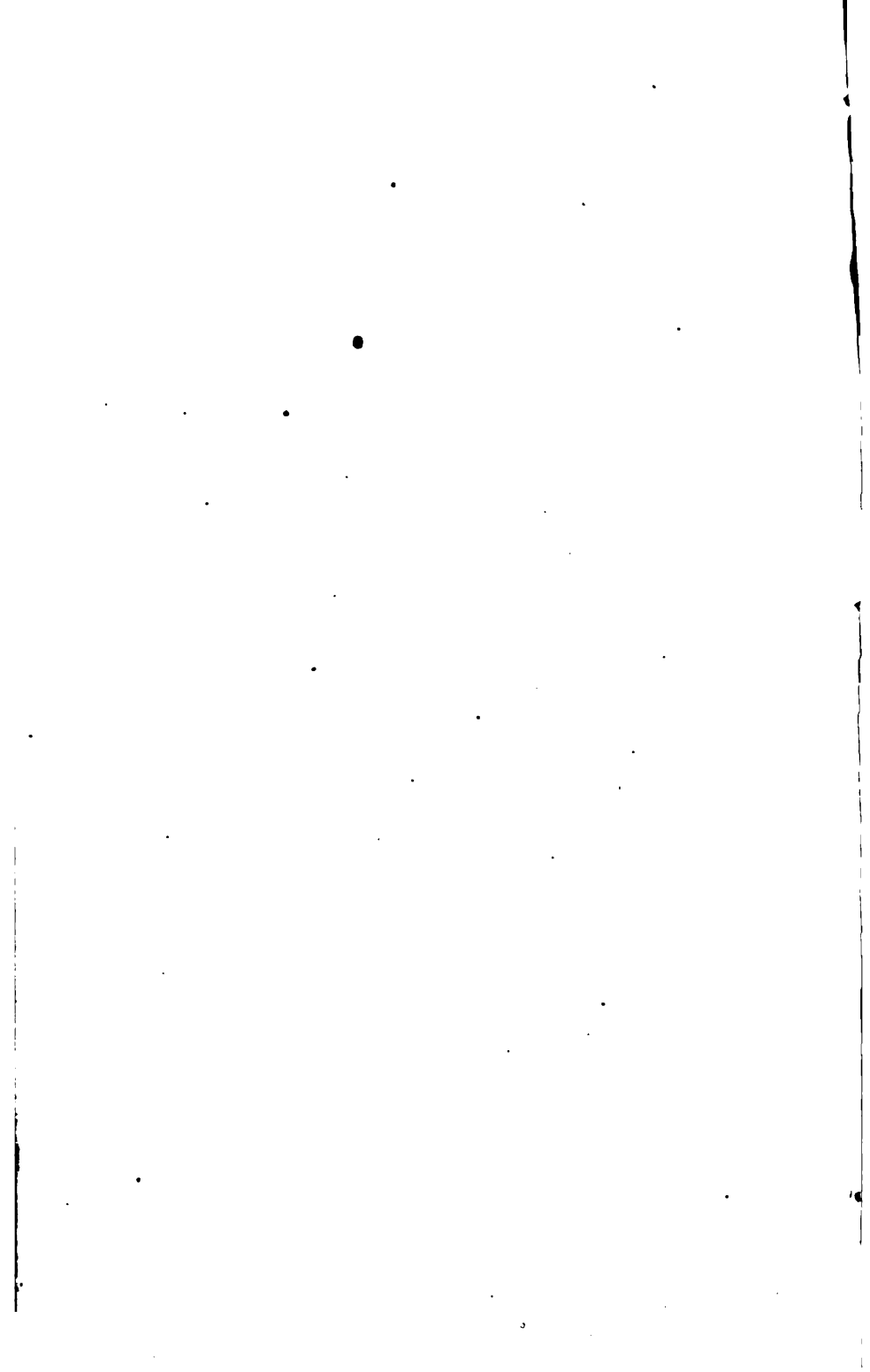
Account of Receipt and Expenditure to be made up annually and laid before Parliament.

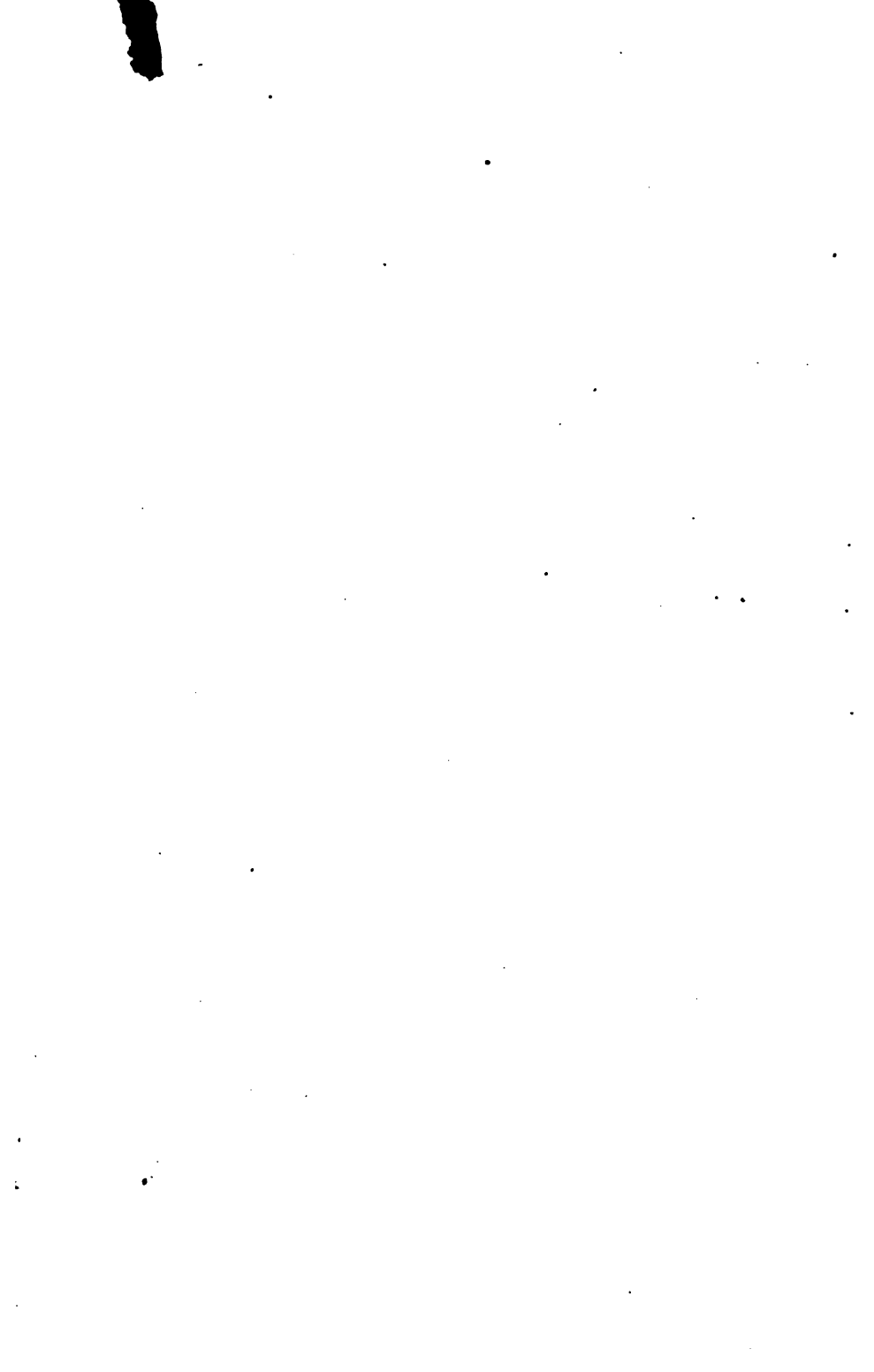
Defining the Jurisdiction of the Commissioners.

Commissioners may require Appearance of Witnesses.

Summary Conviction.







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